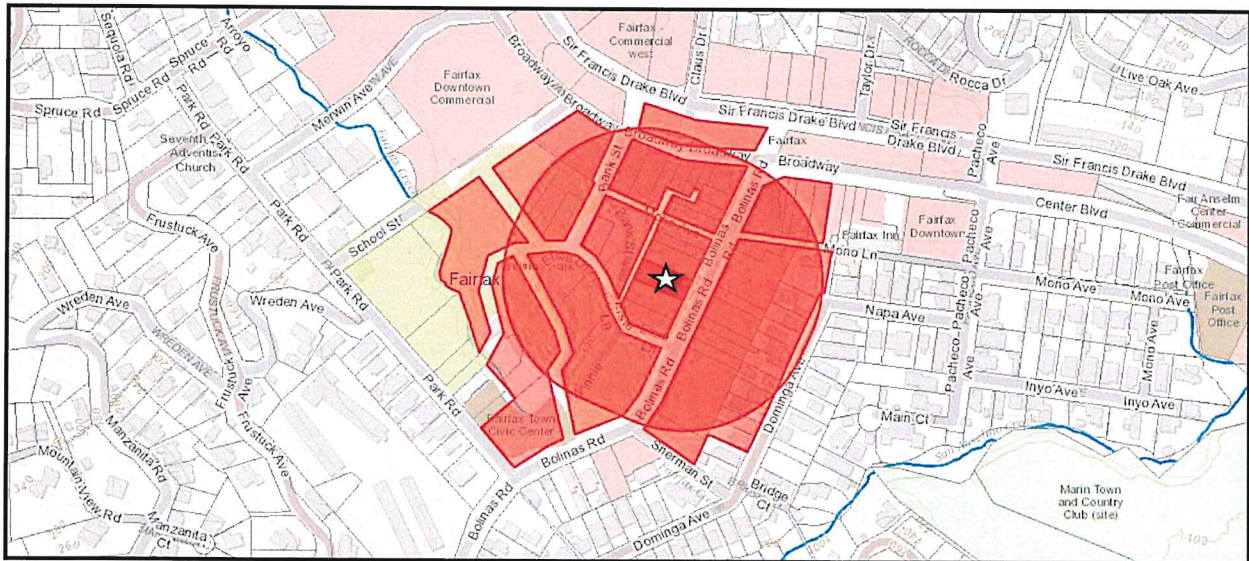


TOWN OF FAIRFAX STAFF REPORT ADENDUM

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: September 22, 2022
FROM: Linda Neal,
LOCATION: 54 Bolinas Road; Assessor's Parcel No. 002-115-15
ZONING: Central Commercial CC Zone
PROJECT: Location of a combination service/retail business in an existing commercial space
ACTION: Conditional Use Permit; Application # 22-20
APPLICANTS: Holly Brandborg and Emma Sheldon
OWNER: Doug Yee
CEQA STATUS: Categorically exempt, § 15301(a)



54 BOLINAS ROAD (NORTHERN SIDE OF SITE)

PROJECT DESCRIPTION

The project encompasses use of an existing commercial space for both a hair salon and a retail space selling clothing, jewelry, pottery, and other items. The only modification that has been made to the structure was the installation of plumbing to serve two hair washing stations.

BACKGROUND

The original structure on the site, 56 and 58 (second story) Bolinas road were built sometime prior to 1951. The approximately 1,072 square-foot commercial structure that

is the subject of this meeting was built to the north of the original structure in 1957. The space at 56 Bolinas Road is now being operated with a Conditional Use Permit granted by the Planning Commission on April 28, 2022, for a yoga studio.

The space, which is small for a commercial business use, has been the location of various businesses over the years. The only period for which the Town has records indicate the space was used as an art supply store in the early 1970's and a silk screen manufacturing business operating with a Conditional Use Permit granted by the Town Council in the late 1970's.

DISCUSSION

Conditional Use Permit

Service businesses such as beauty shops including hair salons are listed as permitted uses in the Central Commercial Zone as are retail businesses like clothing stores and gift shops (Town Code § 17.100.040(A)(9), (A)(20) and (A)(33)].

However, Town Code § 17.100.050(F) does not allow the establishment of a business that combines both service and retail uses in one location unless the Planning Commission grants a Conditional Use Permit for such an establishment and only when neither aspect of the business is an accessory or principal use, but both are an integral part of the business.

In this case, both businesses are operating in one shared space operated by the two business owners with one owner running the salon and the other running the gift/clothing portion. While the salon, by the nature of its need for five hair washing chairs, two hair washing stations and a color room, uses more of the floor area of the building, the retail gift/clothing portion operates from the front of the building which is most visible to foot and vehicular traffic traveling on Bolinas Road.

While the code language refers to one commercial space being operated by one business owner, it is silent on whether there is a limit to the number of businesses or different uses that can be located and operate from a single commercial space. The code also does not include a definition for what "an integral part" means or whether it has anything to do with the square footage utilized by a specific use within the commercial space.

The two owners for financial reasons joined forces because they found the costs of operating in two separate commercial locations on their own financially prohibitive. Both owners realized that turning a profit was going to be difficult unless they operated the two businesses from one location. The two uses support and complement each other with the front counter employee scheduling appointments and ringing up the sale of gifts and clothing, essentially working for both businesses.

The purpose section of the Central Commercial CC District is described in Town Code § 17.100.010 as follows:

The CC Zone central commercial zone is the central business district and retail commercial heart of the Town. It should contain the most valuable land and structures, on a square-foot basis, of any zone in town. The development of the CC central commercial zone caters to an invites pedestrian traffic. Consequently, store frontages tend to be continuous and driveways, blank walls, and other conflicts with or deterrents to foot traffic tend to be minimized.

To approve a Conditional Use Permit the Commission must be able to make the following required legal findings:

1. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. Approval of the use permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety, or welfare of the community.

Both proposed uses will cater to foot traffic and bring people into the downtown area by providing a service to residents while also maintaining an attractive display window to help market the gifts and clothing sold there to both residents and visitors to Town.

The small size of the space and the existence of only five chairs for customers, will limit the number of employees and customers that can utilize the space at any one time to eleven to thirteen (five customers, five stylists, one staff person to operate the front counter and up to two customers browsing through the retail area). The applicants have indicated that it is rare to have five stylists performing five haircuts on site at any one time and it is more typical to have only two to three stylists cutting hair at one time. Each haircut typically takes forty minutes to one hour and coloring can take up to two hours. Business hours of operation are Monday through Saturday from 10 AM to 6 PM and the gift shop is also open on Sundays from 12 noon to 5 PM. Most of the time the number of employees and customers on the site is much fewer than thirteen. Therefore, the amount of customer visits generated by the two uses, which have been operating from the location for some time now, will not cause excessive or unreasonable detriment to

adjoining properties or cause substantial adverse physical or economic effects to the other businesses in Town.

The proposed business will preserve and enhance the community's small-town scale and sense of community (General Plan Objective LU-7.1) and the business is not being expanded so it will not make the on-site parking any more non-conforming than it is now. Therefore, approval of the use permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained or set forth in the 2010-2030 Fairfax General Plan or the Zoning Ordinance.

Approval of the use permit will legitimize the existing business operations resulting in better development of the premises than would otherwise be the case.

Staff recommends the Planning Commission grant the requested Conditional Use Permit based on the findings and subject to the conditions set forth in attached Resolution No. 2022-24 (Attachment A).

Parking Requirements

Town Code § 17.100.110 sets forth the parking requirements for businesses in the CC Zone whose specific parking requirements are not included in Town Code Chapter 17.052, Off-Street Parking and Loading Requirements.

Since the two business owners have found an unusual way to successfully operate in this era of expensive residential and commercial rents, there are no specific parking requirements for a shared use included in Town Code Chapter 17.052, Off-Street Parking and Loading Requirements. When that is the case, the parking required for a business is governed by the general parking requirements contained in the specific zone district where a business is located.

Town Code § 17.100.110(B)(2) indicates in the CC Zone "For any structure or use for which no specific requirements are set forth in this title under Chapter 17.052 the following facilities shall be provided:"

- a. One parking space for each two hundred square-feet or fraction thereof, of gross floor area occupied by, used for, or devoted to the entirety of the principal use to be served including accessory uses.
- b. One large off-street loading space for each 20,000 square feet or fraction thereof.

When a new business use requiring a Conditional Use Permit is unable to provide the minimum required parking on-site, Town Code § 17.100.110(C)(2) allows the parking requirements to be varied by the terms, provisions, or conditions of the use permit approving a conditional use in accordance with the facts, findings and determinations governing approval of the use permit as set forth in Chapter 17.032.

The property is very similar to other businesses in the Bolinas Road and Broadway downtown center in that it does not meet the current parking requirements and has no additional on-site area that can be converted to parking with the two structures built up to the front property line and both the side property lines. The building at 54 Bolinas Road is provided with four compact eight foot by sixteen-foot parking spaces exclusively for their use with two spaces provided in tandem with the two spaces closest to the building at the rear of the structure (Attachment B - see project plan set site plan. This is more on-site parking than is available for many of the downtown buildings, some of which were built between 1910 and 1925, and have no on-site parking.

It has been the practice of the Town Planning Commission to grant parking variances for permitted use and to vary the parking requirements for uses requiring a Conditional Use Permit on sites where there is no ability to create any additional parking subject to the following condition:

If a downtown shared parking program is ever put in place by the Town, the business shall participate in the program as a condition of this Conditional Use Permit.

This condition has been included in attached Resolution No. 2022-24, approving the requested Conditional Use Permit, and setting forth the findings and the conditions for the project approval (Attachment A).

Traffic Impact Permit

Town Code § 17.056 requires that a Traffic Impact Permit be obtained for any new use of an existing structure where the new use will generate 100 average daily traffic (ADT) or more beyond that generated by the prior use with ADT defined as “the total volume of traffic crossing a fixed point (for example, the boundary of the project” over a 24-hour period, averaged over some period of time.

Staff asked the own Traffic Engineering Firm, Parisi Associates, to determine whether the proposed combined use would generate 100 ADT more than the previous use of the building as a portion of the Rocco dance Studio. While the neither the proposed combined service use/retail use or the yoga studio fit perfectly into the categories contained in the ITE Trip Generation Manual, their analysis has provided a comparison that supports staff’s determination that the proposed use will not be subject to obtaining a Traffic Impact Permit for the use (Attachment B). Just to be thorough, we have also asked them to provide the ADU for a 352 square-foot retail space which is the size of the area dedicated to retail at 54 Bolinas Road, and will report that amount verbally at the meeting.

Design Review Permit

No exterior changes have been made to or are proposed to be made to the building by the proposed use except that a sign with both business identification names has been

hung under the front roof overhang. Therefore, the proposal does not require the approval of a Design Review Permit.

Sign Permit

The existing approximately 7.5 square-foot hanging sign has been erected underneath the front roof overhang of the sixteen-foot-wide building, meets the definition of a projecting sign (Town Code §17.064.020, definition of Projecting Sign). Therefore, the required sign permit can be granted ministerially by the planning staff in accordance with the following Sign Ordinance code sections:

Town Code section 17.064.050(A)(1), which allows each business to one square foot of business identification signage for each one foot of building frontage. The building is sixteen feet wide and is therefore allowed a total business identification sign square footage of sixteen square feet and only a 7.5 square foot sign is being proposed.

Town Code section 17.064.050(B) allows each business to have two signs as long as one sign is a projecting sign with the definition of a projecting sign described in Town Code 17.064.100, definition of "Projecting Sign." "Any sign, other than a wall sign, which is erected or supported by a building or roof and which projects outward or upward therefrom. Any sign under a marquee, porch, walkway covering or similar covering structure and in place generally perpendicular to the wall of the adjoining building shall be deemed to be a projecting sign."

The applicants will need to obtain a sign permit for their sign and staff has included this as a condition of the project approval in Resolution No. 2022-24 (Attachment A).

Other Agency/Department Comments/Conditions

Fairfax Building Department

The Building Official has commented that the building bathrooms, parking, and access path do not meet Americans with Disabilities Act (ADA) regulations. The tenant and the property are responsible for complying with those regulations.

The Building Official also indicated that a plumbing permit must be obtained to legalize the installation of the hair washing stations.

Ross Valley Fire Department/Fairfax Police Department//Fairfax Public Works Department/Marin Municipal Water District/Ross Valley Sanitary District

None of the above agencies or departments had any comments or conditions for the proposed use.

RECOMMENDATION

Conduct the public hearing.

Move to approve application # 22-20 by adopting Resolution No. 2022-24 setting forth the findings and the conditions for the Conditional Use Permit approval.

ATTACHMENTS

Attachment A – Resolution No. 2022-24

Attachment B – Parisi Associates e-mail

Attachment C - project plan set

RESOLUTION NO. 2022-24

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow Operation of both a Service Use Hair Salon and a Retail Use Gift Shop with the Provision of Four On-site Tandem Parking Spaces at 54 Bolinas Road

WHEREAS, the Town of Fairfax received an application to utilize the existing commercial structure at 54 Bolinas Road, located in the Central Commercial CC Zone District, for a combination hair salon and gift shop on August 4, 2022 and that application was deemed complete for Planning Commission review on April September 8th, 2022; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 22, 2022, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Conditional Use Permit and the parking plan as described below; and

WHEREAS, in accordance with Sections 17.032.060(A) through (D) of Town Code Chapter 17.032, Use Permits, and section 17.100.110(C), Exceptions, of Chapter 17.100, CC Central Commercial Zone of the Fairfax Municipal Code, the Commission hereby makes the following findings in support of the application for a Conditional Use Permit and associated parking plan with certain conditions:

The proposal complies with Fairfax General Plan Policies as follows:

Goal LU-7: Preserve community and neighborhood character.

Objective LU-7.1: Preserve and enhance the communities small town scale and character.

Policy TC-1.1.1: New and/or renewed development in the Town Center Planning Area shall preserve and enhance the village character and pedestrian scale of the downtown area.

Use Permit Findings (Town Code, Chapter 17.032):

1. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. The use of the commercial space by the two customer oriented businesses complies with the purpose section of the Central Commercial Zone District.
2. The development and use of property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit. The site will provide four parking spaces, in an area of Town where many businesses have no on-site parking. The location is also within walking distance of the public Mono Lane, Contrati Field and the Parkade public parking lots.

ATTACHMENT A

3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town.
4. Approval of the use permit will legitimize the existing business operations resulting in better development of the premises than would otherwise be the case

WHEREAS, the Commission has reviewed the project plans and the applicant's supplemental information and is granting the requested use permit and parking plan subject to the following conditions of approval:

1. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
2. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
3. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc., shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission or staff as required.
4. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly.
5. Any new/replacement of exterior lighting shall be shielded and directed down, be dark sky compliant (fully shielded and emit no light above the horizontal plane with no sag or drop lenses, side light panels or uplight panels) as well as compliant with color

temperature to minimize blue rich lighting. The lighting plan shall be submitted with the building permit application and be approved by the Planning Department prior to issuance of the project building permit. The lighting shall not emit direct offsite illumination and shall be the minimum necessary for safety.

6. The proposed project shall conform to all provisions of Town Code Chapter 8.20 Noise Control.
7. If a downtown shared parking program is adopted by the Town, the business shall participate in the program as a condition of this Conditional Use Permit.
8. A plumbing permit must be obtained to legalize the installation of the hair washing stations.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby approves application # 22-20 on the basis of the above findings and conditions of the application approval.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 22nd day of September 2022, by the following vote:

AYES:

NOES:

ABSENT:

Chair Norma Fragoso

Attest:

David Woltering, Interim Planning Director

Linda Neal

From: Jennifer Shriber <jennifer@parisi-associates.com>
Sent: Tuesday, September 13, 2022 1:51 PM
To: David Parisi
Cc: Linda Neal
Subject: Re: Troublesome question

Hi Linda,

I looked at the ITE trip generation rates and did some calculations for your land uses. Both your existing and proposed land uses are a bit unique, and they don't fit neatly into any ITE land use category. With that being said, I calculated the PM peak hour trip generation for a hair salon as well as a few different types of athletic facilities (these were the closest I could come to a dance studio). The resulting generated trips are as follows:

ITE Land Use	Area (Sq. Ft)	PM Peak Hour Rate Per 1,000 Sq. Ft.	PM Peak Hour Trips Generated
Hair Salon (918)	1,072	1.45	1.6
Health/Fitness Club (492)	1,072	3.45	3.7
Athletic Club (493)	1,072	6.29	6.7
Rock Climbing Gym (434)	1,072	1.64	1.8

I've included the land use descriptions below. Both the health/fitness club and athletic club are facilities that feature a number of different sports, uses, and facilities. I included the Rock Climbing Gym since, like a dance studio, this would also be used for only one type of athletic activity and might be more representative in that way. Regardless of the land use used, the hair salon will generate fewer PM peak hour trips.

Health/Fitness Club: A health/fitness club is a privately-owned facility that primarily focuses on individual fitness or training. It typically provides exercise classes, fitness equipment, a weight room, spa, lockers rooms, and a small restaurant or snack bar. This land use may also include ancillary facilities, such as a swimming pool, whirlpool, sauna, limited retail, and tennis, pickleball, racquetball, or handball courts. These facilities are membership clubs that may allow access to the general public for a fee.

Athletic Club: An athletic club is a privately-owned facility that offers comprehensive athletic facilities. An athletic club typically has courts for racquet sports (e.g., tennis, racquetball, pickleball, squash, handball); a basketball court; a sauna or spa; and fitness, exercise, and weightlifting rooms. They often provide a swimming pool or whirlpool. They often offer diverse, competitive team sport activities and social facilities. These facilities are membership clubs that may allow access to the general public for a fee.

Rock Climbing Gym: A rock-climbing gym is a recreational facility that houses artificial rock walls for the purpose of teaching and training individuals of all ages to climb. It may also offer other entertainment opportunities or special events for individuals or groups of children or adults. Afterschool programs and camps may also be offered.

Please let me know if you have any questions or need anything else.

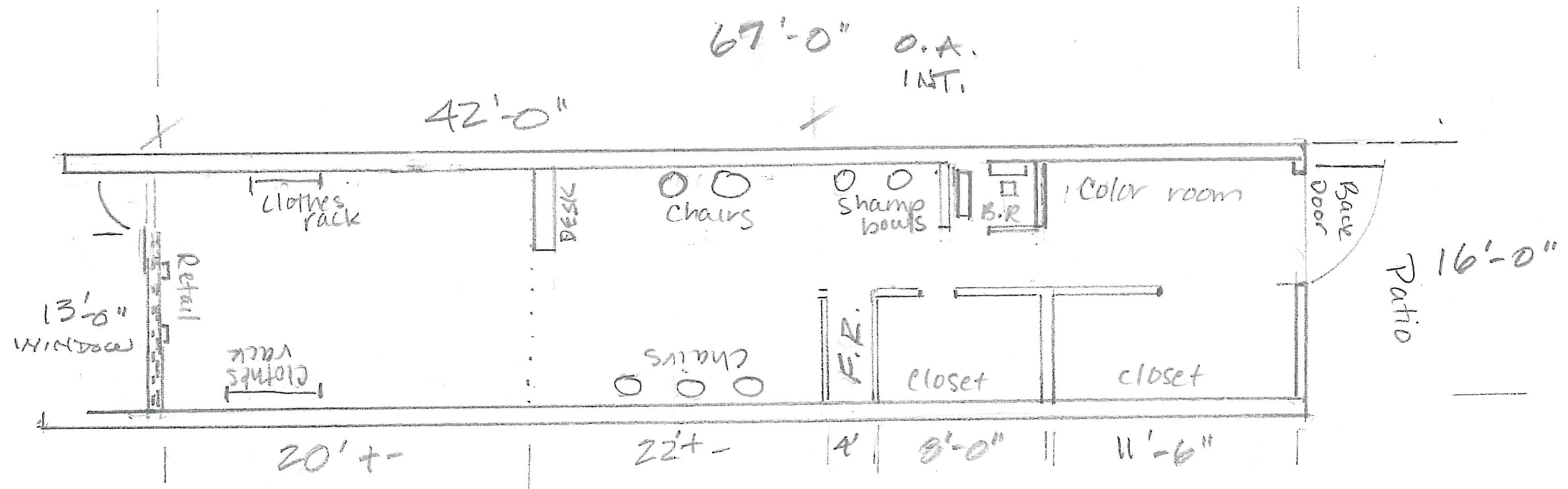
Best,
Jen

On Tue, Sep 13, 2022 at 10:40 AM David Parisi <david@parisi-associates.com> wrote:

BOLINAS AVE.

YOGA STUDIO

ADJACENT



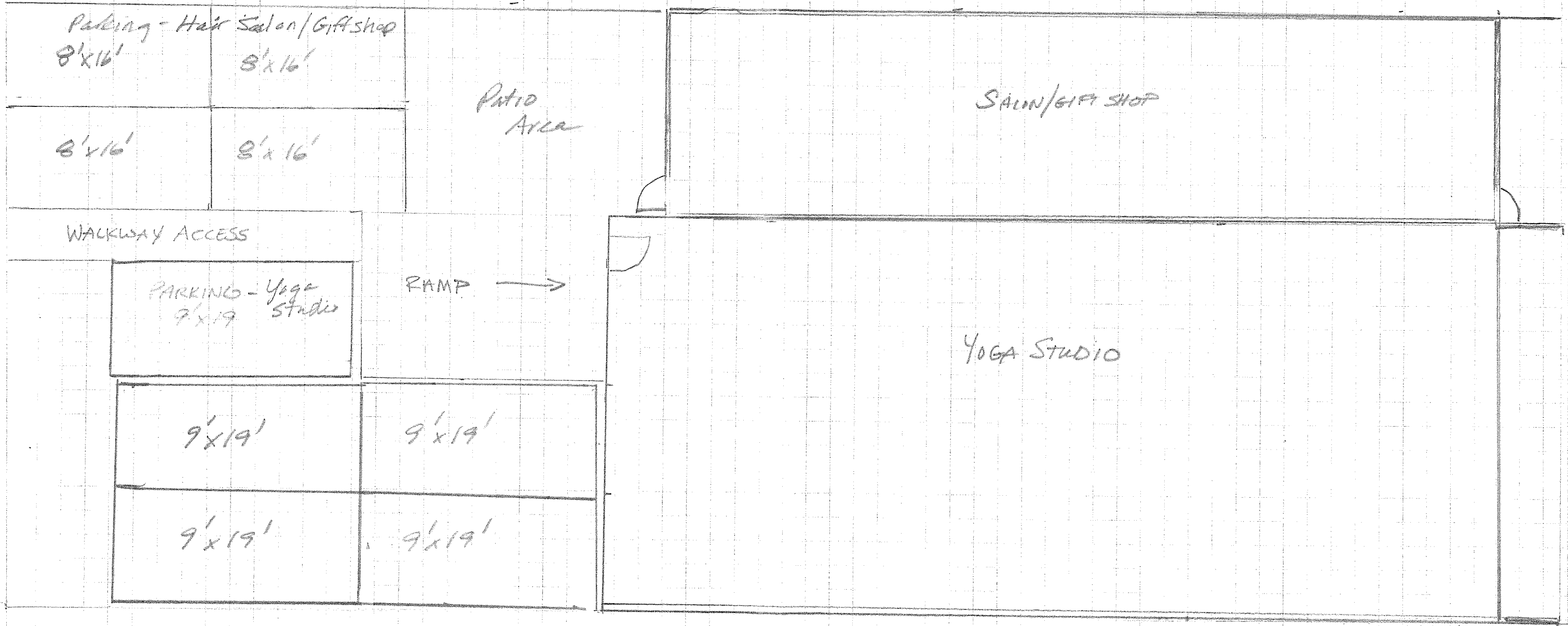
FOX & STONE + EMMA'S SHOP



SCALE
1/8" = 1'-0"



SITE PLAN



Scale = $\frac{1}{8}'' = 1'$

NORTH
↑