



MARIN COUNTY  
 COMMUNITY DEVELOPMENT AGENCY  
 BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR**  
**ARLAS/SMITHTON USE PERMIT**

<b>Item No:</b>	<b>C2.</b>	<b>Application No:</b>	UP 04-24
<b>Applicant:</b>	Robert Smithton	<b>Owners:</b>	Robert Smithton and Ronald Arlas
<b>Property Address:</b>	907 Sir Francis Drake Boulevard, Kentfield	<b>Assessor's Parcel:</b>	074-031-45
<b>Hearing Date:</b>	April 30, 2009	<b>Planner:</b>	Johanna Patri, AICP
<b>RECOMMENDATION:</b>		<b>Approve with Conditions</b>	
<b>APPEAL PERIOD:</b>		<b>10 Working Days to the Planning Commission</b>	
<b>LAST DATE FOR ACTION:</b>		<b>April 30, 2009</b>	

**PROJECT DESCRIPTION**

The applicant is requesting Use Permit approval to continue the use of an existing 6,261 square foot office building at 907 Sir Francis Drake, Kentfield as a law office with facilities for a total of 9 personnel including attorneys and support staff and ancillary uses including a reception area, a library, a conference room and kitchen, copy room, rest rooms, and storage spaces. The use and operation of the law offices generally would be during normal business hours (8:00 AM to 6:00 PM). Eleven on-site parking spaces on Assessor's Parcel 074-031-45 are provided. Within a common parking area for both 907 and adjacent 911 Sir Francis Drake Boulevard, six parking spaces are provided, including one Americans with Disabilities Act (ADA) compliant space.

**GENERAL INFORMATION**

Countywide Plan: RS (Residential/Commercial)  
 Zoning: RMPC (Residential, Multiple-family Commercial Planned District)  
 Lot size: 7,208 square feet  
 Adjacent Land Uses: Commercial  
 Vegetation: None  
 Topography and Slope: Downsloping from Sir Francis Drake Boulevard toward Corte Madera Creek at the rear of the property  
 Environmental Hazards: None identified

**ENVIRONMENTAL REVIEW**

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3(c) of the

CEQA Guidelines because it seeks Use Permit approval to allow the use of an existing office building as law offices that would not result in any significant adverse environmental effects.

## **PUBLIC NOTICE**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property boundaries.

## **PLAN CONSISTENCY**

The proposed project is consistent with the goals and policies of the Marin Countywide Plan, the Kentfield/Greenbrae Community Plan, and the zoning regulations of the Marin County Development Code (Title 22 – Zoning). (*Please refer to Findings IV and V in the attached resolution.*)

## **BACKGROUND**

### 1974 Master Plan Approval

On April 23, 1974, the Marin County Board of Supervisors approved a Master Plan (Board of Supervisors Ordinance No. 2086) for 907 Sir Francis Drake Boulevard, the subject property, and 911 Sir Francis Drake Boulevard, the adjoining property, allowing the construction of a new commercial building for use as a retail patio shop at 907 Sir Francis Drake Boulevard and the continued use of an existing commercial building as a retail furniture store at 911 Sir Francis Drake Boulevard, the adjoining property. The 1974 Master Plan approved a common 17-space on-site parking lot for both buildings, which were under common ownership and were sited on one legal lot of record. Due to limited parking, a condition of the 1974 Master Plan approval limited future uses of both buildings to commercial operations that collectively would not create a demand for on-site parking exceeding 17 parking spaces.

### 1974 Parcel Map

On July 19, 1974, a Parcel Map (Book 10 PM Page 39) was recorded in the Marin County Recorders Office dividing 907 Sir Francis Drake Boulevard and 911 Sir Francis Drake Boulevard into two separate legal lots of record. The subject 7,208 square foot property was created as one lot, and the adjoining 8,789 square foot property (Assessor's Parcel Numbers 074-031-44, -62) was created as the second lot. The Parcel Map depicts an easement for shared access and parking over the vacant portion (Assessor's Parcel 074-031-44) of 911 Sir Francis Drake Boulevard to benefit 907 Sir Francis Drake Boulevard.

### 1974 Precise Development Plan Approval

On July 31, 1974, the Community Development Agency Director approved a Precise Development Plan which provided for a specific design for the approximately 6,261 square foot retail patio shop building and stipulated all customer parking located on the vacant portion of 911 Sir Francis Drake Boulevard to be available to serve both businesses.

## 1995 Master Plan Amendment Waiver, Design Review and Use Permit Applications and Parking Study

In conjunction with the 1995 Master Plan Amendment Waiver, Design Review and Use Permit applications, the applicant submitted a parking study, prepared by the Crane Transportation Group, which examined the adequacy of the on-site parking for the proposed conversion of the 6,261 square foot commercial building at 907 Sir Francis Drake Boulevard from a retail patio store to law offices and the continued retail furniture store use at 911 Sir Francis Drake Boulevard. Pursuant to the Marin County Code provisions, in 1995 the Community Development Agency (CDA) Director waived the 1974 Master Plan Amendment requirement on the bases that: (1) the proposed project was minor and incidental in nature and within the intent and objectives of the governing 1974 Master Plan; (2) the proposed law office use would not increase the demand for on-site parking above that generated by the preceding retail patio store use depending on the number of personnel occupying the building and based on recommendations contained in the parking study; and (3) the submitted 1995 Use Permit application provided sufficient detail pertaining to the intensity of use and improvements that met the intent and objectives of the Residential, Multiple-family Commercial Planned District (RMPC) zoning district and the 1974 Master Plan approval. In waiving the Master Plan requirement in 1995, the CDA Director imposed recommended conditions that would limit the intensity of the proposed office use in order to reflect the number of available on-site parking spaces.

## 1995 Design Review and Use Permit Approvals

On June 27, 1995, the Marin County Board of Supervisors (Board of Supervisors Resolution No. 95-132) approved on an appeal the Arlas/Smithton Design Review (95-02) and (Use Permit 95-015) applications for the remodeling and conversion of the existing 6,261 square foot commercial building for use as a law office including a reception area, library, conference room, kitchen, copy room, rest rooms, and storage spaces. The approvals limited the use and operation of the law offices to normal business hours (8:00 AM to 6:00 PM) with a maximum occupancy of nine personnel including attorneys and support staff. Eleven on-site parking spaces on Assessor's Parcel 074-031-45, the subject property, were approved. The 1995 Use Permit was approved for a period of five years and expired in June 2000. The building received a Certificate of Occupancy from the Marin County Department of Building Inspection for the remodeling project on April 10, 1996.

## Current Proposal

The current proposal requests Use Permit approval for the continued use of the existing 6,261 square foot commercial building as a law office, limiting the use and operation of the law offices to general business hours (8:00 AM to 6:00 PM). The applicant informally requested of Planning staff consideration for a maximum occupancy of 12 personnel including attorneys and support staff. A total of 17 on-site parking spaces, including one ADA-compliant parking space is provided for use by both the retail store at 911 Sir Francis Drake Boulevard and the law office at 907 Sir Francis Drake Boulevard.

## **DEVELOPMENT ISSUES**

Staff has identified the following issues in reviewing this application.

### **On-site Parking Requirements**

The 1995 Arlas/Smithton Use Permit application sought authorization for use of the building as law offices for nine full-time and three part-time attorney and/or staff. In support of the 1995 Arlas/Smithton Use Permit application that ample on-site parking spaces would be provided for the proposed use, the applicant submitted a parking study prepared by the Crane Transportation Group, which concluded that the law office use would generate a total parking demand of 10 on-site spaces, based on parking generation rates established by the Institute of Transportation Engineers, and that this could be accommodated by the 11 on-site parking spaces on Assessor's Parcel 074-031-45. At the time, the applicant put forth that the nature of law practice is such that there is a very limited need for direct public contact due to the use of telephone and fax technologies, which serve as the primary vehicles of communication between lawyers and their clients. Further, the recorded parking easement over the adjoining property allows for unrestricted use of shared parking spaces by the law office for additional visitor parking.

#### *Legal Office Space Parking Requirements*

Marin County Code, Section 24.04.340 (i) requires one (1) on-site parking space per 250 gross square feet of floor area of legal offices. Based on County code, the existing approximately 6,261 square foot office building would require 25 parking spaces.

#### *General Retail Space Requirements*

Marin County Code, Section 24.04.340 (g) requires one (1) on-site parking space per 200 gross square feet of floor area of general retail and personal service stores. Based on County code, the existing approximately 4,834 square foot retail building would require 24 parking spaces.

#### *Department of Public Works Assessment*

The Department of Public Works staff reviewed the current project and, although the available on-site parking for both buildings is less than required by County code, staff determined that the 11 on-site parking spaces on Assessor's Parcel 074-031-45 for the exclusive use of the law office is sufficient on-site parking for the previously approved nine personnel and visitors as law office employees and visitors are able to use the 6 parking spaces (including the ADA-compliant parking space) located in the shared parking easement on the adjoining property (Assessor's Parcel 074-031-44) for a total of 17 parking spaces. Because there is no increase in on-site parking spaces associated with the current Use Permit proposal, CDA staff recommends the continued use of the office building for a maximum of nine personnel.

### **Accessibility of Parking for the Disabled**

The 1974 and 1995 County approvals did not require accessibility of parking for the disabled in compliance with the Americans with Disabilities Act (ADA) or Marin County Code (MCC), Title 24. Recently, the property owner of 911 Sir Francis Drake Boulevard for Marin Hardwood Floors Center, completed a remodeling project (Building Permit (#104359). The requirement to install an ADA compliance parking space at the street level of the parking lot located on Assessor's Parcel 074-031-

44 was included in that building permit. Processing of the Arlas/Smithton Use Permit application was put on-hold until the ADA compliant parking space was installed for the Marin Hardwood Floors Center.

Because the on-site parking on Assessor's Parcel 074-031-44 is available for use by both the office and retail buildings, the law office use may use the existing ADA-compliant parking space. However, Department of Public Works staff is requiring additional improvements to the ADA-compliant parking space. Conditions of approval require the applicant to demonstrate and provide a compliant accessible path of travel from the accessible stall to the base of the access ramp of the office building.

## **CONCLUSION**

All mandatory Use Permit findings can be made approve the continued use of the existing office building for a maximum of 9 personnel including attorneys and staff. The property is currently being served by Marin Municipal Water District (MMWD) and Planning staff placed a call to MMWD explaining that the law offices are an existing use and not a conversion of space to law office use. In addition, there is no landscaping associated with this office building. The property is served by the Ross Valley Sanitary District (RVSD). Conditions of approval require the applicant to contact RVSD to arrange for an inspector to approve the existing installation of the backwater prevention device(s) and to make a record for the RVSD's files. The Kentfield Fire Protection District (KFPD) finds that the existing property has existing fire and life safety systems. Conditions of approval require that the applicant contact the KFPD for an inspection and verification that all existing system function properly. The Kentfield Planning Advisory Board reviewed the project and recommended that the Use Permit approval should be permanent.

## **RECOMMENDATION**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and approve the Arlas/Smithton Use Permit based on the findings and subject to the conditions contained in the attached Resolution.

## **ATTACHMENTS**

1. Proposed Resolution recommending conditional approval of the Arlas/Smithton Use Permit
2. CEQA Exemption
3. Location Map
4. Assessor's Parcel Map
5. Project Plans
6. 1996 Certificate of Occupancy
7. Department of Public Works Memo, 3-10-09
8. Marin Municipal Water District Letter, 4-8-04
9. Ross Valley Sanitary District Letter, 9-20-04
10. Kentfield Planning Advisory Board Minutes, 4-14-04, 10-13-04
11. Kentfield Fire Protection District Memo, 4-22-04
12. Marin Hardwood Floors Center, 911 Sir Francis Drake Blvd, Kentfield ADA Parking Plan
13. Crane Transportation Group "Expected Parking Usage" report, 2-1-95
14. Parcel Map (Book 10 PM Page 39) 907 and 911 Sir Francis Drake

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING THE  
ARLAS/SMITHTON USE PERMIT (UP 04-24)  
907 SIR FRANCIS DRAKE BOULEVAND, KENTFIELD  
ASSESSOR'S PARCEL 074-031-45

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**SECTION I: FINDINGS**

- I. WHEREAS the applicant is requesting Use Permit approval to continue the use of an existing 6,261 square foot office building at 907 Sir Francis Drake, Kentfield as a law office with facilities for a total of 12 personnel including attorneys and support staff and ancillary uses including a reception area, a library, a conference room and kitchen, copy room, rest rooms, and storage spaces. The use and operation of the law offices generally would be during normal business hours (8:00 AM to 6:00 PM). Eleven on-site parking spaces on Assessor's Parcel 074-031-45 are provided. Within a common parking area for both 907 and adjacent 911 Sir Francis Drake Boulevard, seven parking spaces are provided, including one Americans with Disabilities Act (ADA) -compliant space. Zoning of the 7,208 square foot property is RMPC (Residential Multiple-family, Commercial Planned District). The subject property is located at **907 Sir Francis Drake Boulevard, Kentfield**, and is further identified as **Assessor's Parcel 074-031-45**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 30, 2009, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(c) because it entails the a Use Permit to permit the continued use of an existing office building for law offices that would not result in any significant adverse environmental effects.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the goals and policies contained in the Marin Countywide Plan (CWP) for the following reasons:
  - A. The project consists of an office use, consistent with the CWP land use designation of RS – Residential/ Commercial;
  - B. The 2009 Use Permit does not require a new Building Permit but the permitted office building remains in conformance with the County earthquake standards and fire protection policies (CWP Policies EH-2.1, EH-2.3, CD-2.8, EH-4.1, EH-4.2, EH-4.c through EH-4.f, EH-4.,h and EH-4.n);
  - C. The use of the commercial building for law office activities would not negatively impact development in the commercial area of Kentfield and the project is consistent

with local design and scale, and does not detract from the community character (CWP Policy DES-1.2);

- D. The office building project does not have, nor does the applicant propose, any exterior lighting (CWP Policy DES-1.h);
  - E. The project maintains a commercial use within the City-Centered Corridor, where infrastructure and facilities are available (CWP Policy CD-1.1);
  - F. The project does not require extension of urban services (CWP Policy CD-1.2);
  - G. The project maintains development and use that provide jobs for Marin residents (CWP Policy CD-2.4);
  - H. The project maintains commercial use in an area that provides transit accessibility and service capacity within the City-Centered Corridor (CWP Policy CD-2.6); and
  - I. The project maintains a commercial use within the Kentfield commercial downtowns (CWP Policy CD-2.7).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the policies of the Kentfield/Greenbrae Community Plan because the continued law office use: (1) would further the commercial development within the Historic Kentfield area to meet community needs; and (2) would represent a commercial use that is encouraged for the area by the Community Plan.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that, subject to conditions of approval, the mandatory findings for a Use Permit pursuant to Section 22.48.040 of the Marin County Development Code can be made for the reasons listed below.

**A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.**

Pursuant to Marin County Code 22.12.030, the proposed legal office use is a conditionally-permitted land use within the governing RMPC zoning district and would comply with applicable provisions of this Chapter as described in Findings B through F.

**B. The proposed use is consistent with the Countywide Plan and applicable Community Plans.**

The proposed project would be consistent with the goals and policies of the Marin Countywide Plan because as outlined in Findings IV. and V. above. The proposed project would not increase the intensity of use, would not impact adjacent surrounding properties or result in other adverse environmental impacts, and would be compatible with the character of the community.

**C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA).**

The proposed project is Categorical Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(c) of the CEQA Guidelines

because it entails a Use Permit to permit the continued use of an existing office building for law offices that would not result in any potentially adverse impacts to the environment.

**D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.**

The proposed project consists of the continued use of an existing commercial building as a law office, a low intensity use which would be compatible with surrounding low density commercial uses and would not generate any activities which would be detrimental to existing or future land uses in the vicinity. The proposed hours of operation are limited and reasonable and Department of Public Works staff has indicated that adequate parking would exist on the property to serve normal operation of the law office.

**E. The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located.**

The proposed project does not require any modifications to the existing commercial building. Therefore, the proposal would not impair the architectural integrity or alter the character of the zoning district in which the site is located.

**F. Granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

The proposed continued use of the existing commercial structure as a law office would be compatible with the surrounding community and would not be detrimental to the health, safety, convenience, or welfare of the public or surrounding property owners. The proposed use and hours of operation are reasonable and the project would not result in traffic or parking impacts on nearby neighbors, as confirmed by Department of Public Works. Sewage and water service exist and no adverse comments regarding the project have been received from surrounding neighbors or members of the community. The proposed office use will not result in land use conflicts with other office and commercial-retail uses along the south side of Sir Francis Drake Boulevard in the Historic Kentfield area. Use of the subject building as a law office that is limited to a maximum of nine attorneys and/or staff would not increase the demand for on-site parking

**SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Arlas/Smithton Use Permit subject to the conditions of approval as specified below:

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.48 of the Marin County Code, the Arlas/Smithton Use Permit (UP 04-24) is approved for the uses of a law office consisting of a reception area, library, conference rooms, kitchen, copy room, rest rooms, storage space and office space for a



maximum of nine attorneys and/or staff. Eleven on-site parking spaces are approved. The subject property is located at 907 Sir Francis Drake Boulevard, Kentfield, and is further identified as Assessor's Parcel 074-031-45.

2. Use and operation of the law offices shall be limited to normal business hours (8:00 AM to 6:00 PM) with a maximum occupancy of nine attorneys and/or staff.
3. Approved plans consist of plans identified as "Exhibit A," entitled, "Remodel of 907 Sir Francis Drake Boulevard," consisting of eight sheets prepared by Jennifer Kelly, Architect, dated 9-23-94, and revised Sheets A-2 and A-4, dated 8-2-95, and revised Sheet A-4, dated 9-13-04 on file in the Marin County Community Development Agency.
4. This Use Permit is subject to revocation procedures contained in Chapter 22.120 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.
5. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.
6. The Notice of Decision for the Arlas/Smithton Use Permit (UP 04-24) shall be recorded against the title of the property by the Marin County Community Development Agency within 14 days after the date of final approval.

Department of Public Works-Land Use and Water Resources

7. In order to vest the 2005 Arlas/Smithton Use Permit, the applicant must comply with County, State and Federal accessibility requirements. Within 60 days of the date of approval, the applicant must demonstrate and provide a compliant accessible path of travel from the accessible stall to the base of the access ramp of the office building and the applicant must call the Department of Public Works for a site inspection. Please contact Department of Public Works for assistance.

Ross Valley Sanitary District (RVSD)

8. WITHIN 30 DAYS OF APPROVAL OF THIS USE PERMIT, the applicant shall contact the RVSD and submit a letter from the District to the Community Development Agency that verifies that all District inspections and requirements have been met.

Kentfield Fire Protection District (KFPD)

9. WITHIN 30 DAYS OF APPROVAL OF THIS USE PERMIT, the applicant shall contact the KFPD for an inspection and submit a letter from the District to the Community Development Agency that verifies that all existing systems function properly.

**SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Arlas/Smithton Use Permit approval by meeting all conditions of approval.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall remain valid so long as the existing 6,261 square foot commercial building is used as a law office practice in accordance with the provisions and conditions of the Arlas/Smithton Use Permit (UP 04-24) approvals.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on May 14, 2009.**

**SECTION IV: DECISION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 30<sup>th</sup> day of April 2009.

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Jeremy Tejjirian, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary