



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Codington Use Permit Amendment

Item No:	C1	Application No:	UP 10-7
Applicant:	Riley F. Hurd	Owner:	James Codington
Property Address:	511 Atherton Avenue, Novato	Assessor's Parcel:	143-110-66
Hearing Date:	February 25, 2010	Planner:	Veronica Corella-Pearson
	RECOMMENDATION:		Approve with Conditions
	APPEAL PERIOD:		10 working days to the Planning Commission
	LAST DATE FOR ACTION:		February 25, 2010

PROJECT DESCRIPTION:

In response to a Code Enforcement violation, the applicant has applied for a Use Permit Amendment to change the number of allowed doctors, staff, and appointment hours for the veterinary practice at 511 Atherton Avenue in Novato. The applicant has requested the following changes to the approved Use Permit (UP 92-028): 1) to allow up to 3 doctors and a total of 13 staff members on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit are proposed at this time.

GENERAL INFORMATION:

Countywide Plan: SF3 (Single-family, 1 unit/1-5 acres)
Zoning: ARP-2 (Agriculture, Residential Planned, maximum density of 1 unit per 2 acres)
Lot size: 30,000 square feet
Adjacent Land Uses: Residential and Commercial
Vegetation: Native and non-native
Topography and Slope: Level
Environmental Hazards: None

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because the project would not result in new construction or site disturbance, and would not change the existing use of the property, or the intensity of use.

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 600 feet of the subject property. On February 16, 2010, staff received two letters regarding concerns with the proposed project. Both letters were from nearby neighbors regarding the following concerns: 1) commercial uses in a residential and agricultural area; 2) traffic impacts; 3) parking limitations; 4) septic and water usage; and 5) garbage and lighting. These issues are discussed more in Project Analysis.

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of the Marin Countywide Plan and the Black Point Community Plan. Please refer to the plan consistency findings contained in the attached resolution.

BACKGROUND

The subject property is zoned ARP-2 (Agricultural, Residential Planned, maximum density of 1 unit per 2 acres). A veterinarian clinic is a conditional use, allowable by Use Permit approval. In 1984, the original Use Permit was granted for the property that allowed a partial conversion of an existing single-family dwelling to a veterinary clinic. In 1992 the applicant applied for a Use Permit Amendment to allow for the existing commercial use of the property and to allow for minor additions to the structure, signage, and to allow for up to 7 employees and 47 patients per day on the premises. The maximum number of animals allowed to stay overnight on the premises is 8, and the following appointment hours were approved; Monday through Wednesday, and Friday from 8:00 a.m. to 6:00 p.m.; Thursday from 8:00 a.m. to 8:00 p.m.; and Saturday from 9:00 a.m. to 1:00 p.m.

PROJECT ANALYSIS:

The project has been reviewed by the Novato Fire Protection District, North Marin Water District, the Department of Public Works, and Environmental Health Services. The Use Permit Amendment is for a change to the number of allowed employees for the veterinarian clinic, and the operation hours. No other conditions of the Use Permit are proposed for amendment. Staff has analyzed the projects compliance with its existing conditions of approval and conformance with Marin County Code Section 22.48.

Hours of Operation

The applicant has requested that the hours available for appointments be changed for Thursday and Saturday, with the remaining days to remain the same. As proposed, Thursday's appointment hours would be the same as the remaining days of the week from 8:30 a.m. to 6:00 p.m., and would close two hours earlier. Saturday's hours would be increased by four hours and the clinic would be open for appointment one hour earlier and close three hours latter. The proposed modification to the existing appointment hours would only result in a 1.5 hour increase in the total hours of operation. The office would be closed to the public at 6:00 p.m., but this would not result in a large volume of traffic exiting the clinic since appointments are staggered, and staff would most likely remain longer to close the office. Further, operating longer on Saturdays, when there isn't a workday commute, would most likely not result in a significant traffic impact since there would be no commuter traffic.

Parking and Traffic

During review the applicant has demonstrated that there is adequate parking available on-site. Parking requirements are based on the square footage of the facilities. The proposed project does not include expansion of the existing facilities, and the applicant is exceeding the number of required parking spaces. The neighbors have voiced concerns with cars and delivery trucks parking in the right-of-way. Public parking within the right-of-way is allowable in the Marin County Code, and staff cannot condition the project to prevent parking in this location.

Septic and Water

The proposed conditions of approval require that the applicant install a Dose Counter and Elapse Time Meter to monitor wastewater flows to ensure compliance with the maximum allowed wastewater flows. The conditions of approval also require that the owner comply with North Marin Water District's requirements that a new water service agreement be entered into. With these conditions of approval, the project would not pose a public health or safety detriment. Staff further finds that no additions or site work is proposed, therefore the project would not result in adverse visual impacts, or impacts to the community character.

Other concerns raised were regarding garbage and exterior lighting. Garbage and recycling are not regulated by Marin County Code. Staff recommends that the owner contact the waste disposal company and request larger containers. The current Use Permit conditions of approval require that all exterior lighting be hooded and face inward and downward, and shall only operate from dusk to 8:30 p.m. daily. All existing lighting was approved in the prior Use Permit and conforms to the Use Permit approvals, and no changes are proposed. Any new lighting would require approval from the Community Development agency.

CONCLUSION

The applicant does not propose any new changes that would include new development, remodels, or significant changes to the intensity of use on the subject property. Staff has reviewed Use Permit approval 92-028 and finds that the amendment would not conflict with the conditions of approval. The veterinarian clinic has been in operation for over 25 years and provides a valuable service to the community, and the proposed amendment would assist the clinic in better serving the community needs.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution conditionally approving the Codington Use Permit Amendment (UP 10-7).

Attachments:

1. Proposed Resolution recommending approval of the Codington Use Permit Amendment (UP 10-7).
2. Codington Use Permit Amendment (UP 92-028)
3. CEQA Exemption
4. Location Map
5. Assessor's Parcel Map
6. Application Submittal, Exhibit A

Codington Use Permit Amendment (UP 10-7)

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7. Letter from Raghianti Freitas, dated 11/30/09
8. Environmental Health Services –transmittal dated 12/17/09
9. Department of Public Works, Land Development, transmittal dated 12/21/09
10. Novato Fire Protection District, letter dated 10/22/09
11. North Marin Water District, letter dated 10/6/09
12. Black Point Improvement Club, letter received 11/17/09
13. Letter from Dennis Molloy, received 2/16/10
14. Letter from Virginia Simpson-Magruder and Munro Magrudor, received 2/14/10

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE CODINGTON USE PERMIT AMENDMENT (UP 10-7)
511 ATHERTON AVENUE, NOVATO
ASSESSOR'S PARCEL 143-110-66

SECTION I: FINDINGS

- I. WHEREAS in response to a Code Enforcement violation, the applicant has requested a Use Permit Amendment, to change the number of allowed doctors, staff and appointment hours for the veterinary practice at 511 Atherton Avenue in Novato. The applicant has requested the following changes to the approved Use Permit (UP 92-028): 1) to allow 3 doctors and a total of 13 staff members on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit are proposed at this time. The subject property is located at 511 Atherton Avenue, Novato and is further identified as Assessor's Parcel 143-110-66.

- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 25, 2010 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 15301, Class 1 because the project will not result in new construction or site disturbance, and will not change the existing use of the property, or the intensity of use.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project proposes no new construction or site disturbance and will not conflict with CWP natural systems policies requiring the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).

 - B. The project proposes no new construction or site disturbance and will not conflict with the natural systems policies regarding supporting vegetation and wildlife disease management programs and promoting the use of native plant species (CWP Policies BIO-1.4, BIO-1.5, BIO-1.6 and BIO-1.7).

 - C. The project proposes no new construction or site disturbance and will not conflict with policies regarding special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).

- D. The project proposes no new construction or site disturbance and will not conflict with policies regarding protecting ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the private open space adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).
- E. The project proposes no new construction or site disturbance and will not conflict with policies regarding the protection of wetlands or stream conservation areas (CWP Policies BIO-3.1 and CWP BIO-4.1).
- F. The project proposes no new construction or site disturbance and will not conflict with policies regarding stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
- G. The project proposes no new construction or site disturbance and does not trigger construction that requires building permit review for earthquake standards (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
- H. The project has been reviewed by Novato Fire Protection District and is in compliance with required adequate fire protection standards regarding, removal of hazardous vegetation (CWP Policy EH-4.1, and CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), defensible space and the project does not require a building permit that will require compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n), and clearance of vegetation around the proposed structure (CWP Policy EH-4.h).
- I. The project as approved in UP 92-028 is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (CWP Policy DES-1.2).
- J. The project proposes no new construction and will not conflict with policies regarding energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (CWP Policy DES-1.h).
- K. The project proposes no new construction or site disturbance and therefore will preserve visual quality, and protect scenic quality and views of the natural environment from adverse impacts related to development (CWP Policy DES-4.1).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Black Point Community Plan because the proposed Use Permit Amendment will: 1) not result in new construction, and will maintain the existing rural residential community character; 2) preserve the natural attributes and features found in the surrounding community; and 3) not result in new growth to the surrounding areas or influence the character of the community.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project will be consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.48.040 of the Marin County Code 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.

Marin County Code Section 22.08.030 allows for veterinary clinics and animal hospitals in the ARP (Agricultural, Residential Planned) zoning district, based on Use Permit approval. The veterinarian clinic received Use Permit approval in 1984, and a Use Permit Amendment was granted in 1992.

B. The proposed use is consistent with the Countywide Plan and Black Point Community Plan.

See Section IV and V above.

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

See Section III above.

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 applicant has requested that the hours available for appointments be changed for Thursday and Saturday, with the remaining days to remain the same. As proposed, Thursday's appointment hours would be the same as the remaining days of the week from 8:30 a.m. to 6:00 p.m., and would close two hours earlier. Saturday's hours would be increased by four hours and the clinic would be open for appointment one hour earlier and close three hours later. The proposed modification to the existing public hours would only result in a 1.5 hour increase in the total public operation hours. The office would be closed to the public at 6:00 p.m., but this would not result in a large volume of traffic exiting the clinic since appointments are staggered, and staff would most likely remain longer to close the office. Further, operating longer on Saturdays, when there isn't a workday commute, would most likely not result in a significant traffic impact since there would be no commuter traffic.

- E. That 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 project has been reviewed by the Novato Fire Protection District, North Marin Water District, the Department of Public Works, and Environmental Health Services. During review the applicant has demonstrated that there is adequate parking available on-site. The proposed conditions of approval require that the applicant install a Dose Counter and Elapse Time Meter to monitor wastewater flows to ensure compliance with the maximum allowed wastewater flows. The conditions of approval also require that the owner comply with the North Marin Water District's requirements that a new water service agreement be entered into. With these conditions of approval, the project would not pose a public health or safety detriment. Staff further finds that no additions or site work is proposed, therefore the project would not result in adverse visual impacts, or impacts to the community character. The veterinarian clinic has been in operation for over 25 years and provides a valuable service to the community, and the proposed amendment would assist the clinic in better serving the community needs.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Codington Use Permit Amendment (UP 10-7) subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. Pursuant to Marin County Code Section 22.48.040 the Codington Use Permit Amendment (UP 10-7) is approved for the following changes to UP 92-028: 1) to allow up to 3 doctors and a total of 13 staff members on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit 92-028 are approved. The subject property is located at 511 Atherton Avenue, Novato and is further identified as Assessor's Parcel 143-110-66.
2. All other conditions of Use Permit approval UP 92-028 remain in full effect.
3. This Use Permit Amendment shall be recorded to advise all future landowners of the Use Restrictions associated with the Veterinarian Clinic.
4. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.

5. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.
6. 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 out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.
7. The applicant shall comply with all North Marin Water District requirements and provide the Community Development Agency - Planning Division with written verification from the water district stating that all conditions of approval have been met.
8. The applicant must comply with all Conditions of Approval within 180 days.

Marin County Environmental Health Services - Sewage

9. The applicant shall install a Dose Counter and Elapse Time Meter into the septic system control panel.

North Marin Water District

10. The applicant shall apply for a new Water Service Agreement with North Marin Water District and shall pay all required connection fees.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Codington Use Permit Amendment (10-7) approval by commencing the allowed use on the property, in compliance with the conditions of approval by August 25, 2010. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, in consultation with the Code Enforcement Section, for good cause, such as delays beyond the applicant's control. In no event may such extensions be granted beyond two years from the effective date of this approval. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 of the Marin County Code.

The Codington Use Permit Amendment shall be valid indefinitely, so long as the current owner or subsequent owners of the subject property comply with the conditions of project approval. In the event that the terms of the Codington Use Permit Amendment are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, the Codington Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120.030 of Marin County Code.

Failure to comply with the strict terms of the Conditions of Approval shall result in invalidation of all permits and rights granted herein. The owner(s) of the subject property shall pay all staff cost incurred at the prevailing hourly rate for any required enforcement actions required by the County.

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 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 **March 11, 2010.**

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 25th day of February, 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary