

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 11-112

A RESOLUTION APPROVING
MARINWOOD PLAZA USE PERMIT (UP 11-8)
121, 155, 175, AND 197 MARINWOOD AVENUE, SAN RAFAEL
ASSESSOR'S PARCEL 164-471-64, 65, 69, and 70

SECTION I: FINDINGS

- I. WHEREAS Agricultural Community Events Farmers Markets, on behalf of the property owners, Marinwood Plaza, and property managers, Hoytt Enterprises, Inc., is requesting a Use Permit to continue the weekly Marinwood Community Farmers' Market in the parking lot of the Marinwood Plaza. A Temporary Use Permit was issued for the market on April 1, 2010, which will expire on April 15, 2011. The applicant proposes to continue the market with up to 70 vendors. Operating hours for the market would be year-round on Saturdays from 9 a.m. to 2 p.m. and from May to November on Wednesday evenings from 4 p.m. to 8 p.m. On Saturdays, vendors would arrive no earlier than 7 a.m. and would be offsite by 4 p.m. On Wednesday evenings, vendors would be offsite by 9 p.m. Vendors would sell items such as fruits, vegetables, coffee, baked goods, cheese, prepared foods, and flowers. Related activities include children's activities, pony rides, arts, crafts, music, and booths for community groups. The applicant anticipates 500-700 daily customers for the market; estimating approximately 250-350 vehicles/day over the five hour period, averaging 50-70 vehicles/hour. The applicant proposes the continued operation of a coffee cart that is open Monday through Sat from 6 a.m. to 5 p.m., subject to customer demands. Portable bathrooms with a hand washing sink would be provided on-site. Garbage and waste water would be hauled away at the end of each market. The zoning for these parcels is CP (Planned Commercial). The subject property is located at **121, 155, 175, and 197 Marinwood Avenue, San Rafael** and is further identified as **Assessor's Parcels 164-471-64, 65, 69, and 70**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 31, 2011 to consider the merits of the project, and hear testimony in favor of and in opposition to the project. The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property, as well as to interested parties.
- 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 (CEQA) pursuant to Section 15304, Class 4 of the CEQA Guidelines because it is a minor temporary use of the land having negligible or no permanent effect on the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) due to the following factors:
 - A. The project is consistent with the CWP's General Commercial land use designation and policies for the City Centered Corridor.

- B. The project is consistent with CWP policies to support neighborhood-oriented farmers' markets (CWP Public Health Policy 1.1.) because families, seniors, schools, and community-based organizations would have access to healthy foods and fresh, locally grown fruits and vegetables.
 - C. The project is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*) because the project is on a developed lot and would not entail the removal of any vegetation or trees.
 - D. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - E. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the project is on a previously developed site and entails no construction, grading, or removal of vegetation. The project is located far enough from riparian corridors to avoid being constrained by ecotones.
 - F. No wetlands or stream conservation areas would be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*) because there are no wetlands or streams on or adjacent to the project site.
 - G. The project would not result in significant storm water 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*) because the project would comply with the standards and best management practices required by the Department of Public Works.
 - H. The project design and conditions of approval ensure adequate fire protection (*CWP Policy EH-4.1*) and compliance with Marin County fire safety standards (*CWP Policies EH-4.d and EH-4.n*).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (Section 22.48.040 of the Marin County Code), as specified below:

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

Food products and outdoor retail sales and activities are permitted uses within the applicable Planned Commercial District. While conditional uses may require authorization by a Master Plan, a Master Plan can be waived with Use Permit and Design Review approval of uses and design features for small or otherwise minor projects (MCC Section 22.040.A.1.) The weekly farmers' market is considered a small or minor project. Since the project entails no new structures or alterations to the site, it is exempt from Design Review.

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

Please see Section IV above. While there are no applicable Community Plans, the project would be consistent with Resolution 2006-146 of the Marin County Board of Supervisors Marinwood Village Conceptual Master Plan (September 26, 2006) and the referenced Marinwood Village Guiding Principals. The proposed use supports a pedestrian-oriented and mixed use of the underutilized plaza and would be compatible with the desired grocery store use of the property.

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

Please 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 existing farmers' market has operated as a successful pilot project for the past year. The market is consistent with existing uses in the vicinity. As conditioned, the project would be compatible with future land uses in the vicinity.

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 use entails no construction of any permanent structures and therefore has no impact on the architectural integrity of the zoning district. The pilot project restored a blighted and vacant portion of the plaza; the continued operation of the market would improve the character of the zoning district.

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 granting of this Use Permit would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County since it is a continuation of a one-year temporary use permit for an existing and successful farmers' market, for which no problems were identified nor complaints received. The project would restore a portion of a primarily vacant shopping center and would not result in a permanent structure. As conditioned, with limited hours of operation, the project would not impinge upon other uses at the project site. The property owner will be required to coordinate uses on the property. The location of the farmers' market and coffee cart within the largely vacant shopping center has resulted in the cleanup of a degraded site, improved the site appearance, and provided a useful community amenity. The project would continue to provide neighbor and community access to healthy foods.

SECTION II: ACTION

NOW, THEREFORE, LET IT BE RESOLVED, that the Marin County Deputy Zoning Administrator hereby approves the Marinwood Plaza Use Permit (UP 11-8) subject to the conditions of approval listed below. Approval is granted to operate the Marinwood Community Farmers' Market in the parking lot of the Marinwood Plaza. The market is approved for a maximum of 70 vendors, which includes, but is not limited to purveyors of fruits, vegetables, coffee, baked goods, cheese, prepared foods, and flowers. Related activities are approved to include children's activities, pony rides, arts, crafts, music, and booths for community groups as approved by Marin County Community Development Agency. The market is approved for up to 700 daily customers. Approval is granted for a coffee stand to be located in the existing parking lot. Portable bathrooms with a hand washing sink are approved to be located on-site for use by the farmers' market operation. No permanent alterations are approved to existing structures and parking lot. The subject property is located at **121, 155, 175, and 197 Marinwood Avenue, San Rafael** and is further identified as **Assessor's Parcels 164-471-64, 65, 69, and 70.**

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. A Building Permit and additional permits and/or approval may be required from the Department of Public Works, and the appropriate Fire Protection Agency.

SECTION III: CONDITIONS OF APPROVAL

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

Marin County Community Development Agency - Planning Division

1. The location of the market and coffee cart shall conform to plans identified as **Exhibit A**, entitled "Site Topography – Marinwood Plaza", consisting of three sheets prepared by Adobe Architects and modified by Architect Bill Hansell, received February 10, 2011 and on file in the Marin County Community Development Agency, Planning Division, except as modified by the conditions listed herein.
2. BEFORE COMMENCEMENT OF THIS USE PERMIT (APRIL 15, 2011), the applicant shall submit a complete set of revised plans that include information for Bill Hansell (license number, business address and telephone number) and the date of the additions he has made to the plans.
3. Hours of market operation shall be 1) year round on Saturdays from 9 a.m. to 2 p.m., with setup taking place no earlier than 7 a.m. and vendors to be offsite by 4 p.m., and 2) Wednesday evenings from May 1 to November 1, 2010 from 4 p.m. to 8 p.m., with vendors to be offsite by 9 p.m. each evening.
4. Hours of operation for the coffee cart shall be from 6 a.m. to 5 p.m. Monday through Saturday, subject to customer demands.

5. Fencing shall be used to confine public access to the market area, preventing pedestrians from accessing the easterly back alley of the market area and outside of the public area at the southerly end of the parking lot.
6. All tables and awnings will be set up and taken down each day of operation. The project site shall be cleaned of debris, litter, or any other evidence of the farmers' market at the end of the hours of sales each day. Per vender permits, all wastewater shall be hauled off-site.
7. Accessible bathrooms and a hand-washing sink will be provided per Environmental Health permit requirements.
8. The property owner shall be responsible for integrating and coordinating the multiple uses on the site so that conflicts do not arise.
9. The applicant/owner hereby agree 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 approval of this application, for which action is brought within the applicable statute of limitations.
10. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division in writing for review and approval before the contemplated modifications may be initiated.
11. The approved use is subject to compatibility with future uses, particularly adequate parking. Upon prior written notification to the Planning Division and subject to CDA staff approval, the days and hours of operation and location of this use may be changed to accommodate future uses. A change in location would require submittal of a revised site plan, but shall be approved ministerially if it substantially conforms to this decision.
12. IN SEPTEMBER 2012, a condition compliance review will be required to confirm that the project's operations substantially conform to these conditions of approval. Planning Division staff shall conduct an unannounced site visit to the farmer's market to observe the operations. In addition, DPW staff will review the parking and traffic compliance monitoring study. The applicant/owner shall pay a compliance review fee at the Agency's standard hourly fee to cover staff time to perform the compliance review, submitting an initial \$800 retainer by September 1, 2012. In the event that staff determines that the farmer's market does not comply with the conditions of approval, then the farmer's market must change it's operations to comply with these conditions within 60 days of the non-compliance determination or the Agency will initiate Use Permit revocation proceedings.
13. UPON VESTING OF THE PROJECT, the Community Development Agency shall file this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners and/or lease holders of the approved use and special conditions relative to this Marinwood Plaza Use Permit.

Marin County Department of Public Works - Land Use and Water Resources Division

14. Before vesting this Use Permit approval and within 30 days of the final decision on this Use Permit, the applicant shall submit revised plans within information for Bill Hansell (license number, business address and telephone number) and the date of the additions he has made to the plans.
15. All accessible parking and loading areas shall meet federal and State of California Title 24 accessibility standards. It is the responsibility of the property owner to comply with all state and federal accessibility requirements. Note that several elements of the "Accessible Parking" do not conform to current accessibility standards. Specifically, there is no striped separate access aisle provided for each parking space, drivers are compelled to walk behind parked vehicles other than their own, and there is no detectable warning between the path of travel and the vehicular way. DPW has not evaluated the dimensions of the spaces. Accessible parking spaces are to be placed so that the distance from the access aisle to the point of entrance is as short as possible. If the building is filled with tenants, the location of the accessible parking stalls should be dispersed throughout the parking area.
16. Should the applicant and/or property owner wish to initiate upgrades to the accessible site improvements (parking, path of travel, telephone access, restroom access, etc.), the applicant and/or owner may either:
 - a. Pursue a building permit for the proposed accessible site upgrades, a process by which the County reviews the proposed work for compliance with state and federal regulations, OR
 - b. Proceed without the County's involvement and complete the work as directed by a licensed architect, or similar professional, who will take responsibility for ensuring the work complies with all applicable laws.

In either case, it is ultimately the property owner's responsibility to comply with state and federal accessibility requirements.

17. The owner shall ensure that cumulative uses on the site during the operations of the farmer's market comply with the following traffic and parking performance standards:
 - a. Seventy parking stalls shall be made available on the premises for the farmer's market staff, vendors and customers.
 - b. The level of service at the Marinwood Avenue/Miller Creek and Miller Creek/Las Gallinas Avenue intersections shall not be below level of service is D during the operations of the farmer's market.
18. At the time of compliance review, the owner shall submit a traffic and parking compliance monitoring study, prepared by a qualified traffic engineer and based on monitoring of the identified intersections and on-site parking availability during both a Saturday and a Wednesday farmer's market held during September 2012, which verifies that the farmer's market complies with traffic and parking traffic performance standards indicated above.

19. In the event that market hours go beyond sunset, parking lot lighting is required to comply with Marin County Code (MCC) 24.04.410.
20. An encroachment permit issued by the Department of Public Works will be required for any work in the County road right of way.
21. Applicant/owner shall comply with MCCC 23.18.090 Reduction of pollutants in urban runoff, any person engaged in activities which will or may result in pollutants entering a county storm drain shall undertake all practicable measures to cease such activities and/or eliminate or reduce such pollutants. Such activities include, but are not limited to, ownership, operation and/or use of parking lots, gasoline stations, industrial facilities, commercial facilities and stores fronting county streets. (Ord. 3225 § 2 (part), 1996)
22. Applicant/owner shall comply with MCC 23.18.091 Littering, except for pollutants lawfully disposed of by way of containers or at lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the county, such that, in the opinion of the authorized enforcement official, the same might be or become a pollutant discharged to the waters of the United States. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee or proprietor of any real property in the county in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt and/or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property as required for the recycling or disposal of garbage. (Ord. 3225 § 2 (part), 1996)
23. Applicant/owner shall comply with MCC 23.18.092 Standard for parking lots and similar structures, persons owning or operating a parking lot, gas station or similar facility shall clean same as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to a county storm drain. (Ord. 3225 § 2 (part), 1996).

Marin County Environmental Health Services (EHS)

24. The applicant and all Farmers' Market Vendors and Temporary Food Facilities shall maintain all the necessary permits from EHS. All Farmers' Market Vendors and Temporary Food Facilities shall obtain and maintain a Health Permit to Operate prior to operating in the market.

Marinwood Fire Department

25. All requirements of the Marinwood Fire Department shall be met, including the following:
 - a. All tents need to be fire resistant and California State Fire Marshal approved.
 - b. No open cooking shall take place within any tent.

- c. Market passage area must be 15 feet wide and cleared of all obstructions to allow for passage of emergency vehicles.
- d. Any ground poles (stanchions) that remain within the area must be removable by lock and key.
- e. The "jumper" location shall have at least one person per jumper standing by to monitor it.
- f. A first aid kit shall be maintained at the information booth.
- g. A State Fire Marshal approved fire extinguisher size 2A:10:BC shall be at each cooking station.
- h. The current locations and flows of the fire hydrants in the Marinwood Plaza and at the corner of Marinwood Avenue and Miller Creek are adequate.

Marin Municipal Water District

- 26. No water use is authorized by this permit. It is the responsibility of the applicant and vendors to provide their own water supply to the market. If the applicant wishes to use water for a community garden, they must contact the MMWD for authorization.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

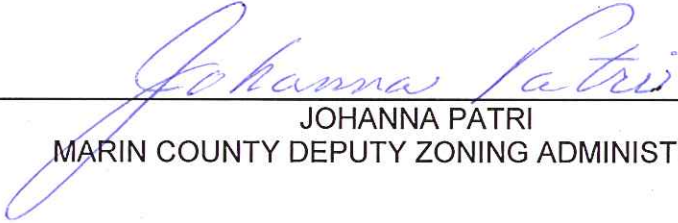
NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by continuing the allowed use in compliance with the conditions of approval.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid in perpetuity, as long as the applicant or owner of the subject property comply with the conditions of project approval. In the event that the terms of this Use Permit 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 Marinwood Plaza Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120 of the Marin County Code. The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the 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, before 4:00 p.m. on April 14, 2011.

SECTION IV: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 31st day of March 2011.

A handwritten signature in blue ink that reads "Johanna Patri". The signature is written in a cursive style and is positioned above a horizontal line.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

A handwritten signature in blue ink that reads "Joyce Evans". The signature is written in a cursive style and is positioned above a horizontal line.

Joyce Evans
DZA Secretary

