

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 12-104

A RESOLUTION APPROVING  
GHOSSEIRI USE PERMIT UP 12-6 AND DESIGN REVIEW 12-29  
PROJECT ID 11-0343  
860 COLLEGE AVENUE, KENTFIELD

ASSESSOR'S PARCEL 074-031-36  
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**SECTION I: FINDINGS**

I. WHEREAS Daniel Macdonald AIA Architects, Inc., on behalf of the property owner, proposes to renovate existing structures on an 8,741-square foot multi-residential and commercial property. The proposed project would retain two apartment units and one commercial space, reduce the existing total floor area from 3,451 square feet to 3,404 square feet, and reduce the existing floor area ratio from 39.5% to 38.9%. The renovated two-story building would retain the existing maximum height of 29 feet and the following setbacks: 1.75 feet from the westerly front property line, 2.5 feet from the northerly side property line, 19 feet from the southerly side property line, and approximately 92.3 feet from the easterly rear property line. The project entails a 30-square foot addition to the northeasterly rear of the first floor apartment and a 30-square foot, two-story elevator on the southerly side of the building. The project includes a 125-square foot deck addition to an existing 62-square foot deck at the rear of the ground floor apartment that would attain a maximum height of approximately 5.5 feet above existing grade and a new 352-square foot deck along the southerly side of the second floor apartment that would attain a maximum height of approximately 17.6 feet above existing grade. The existing 633-square foot garage would be demolished and replaced with a new 672-square foot carport with four residential parking spaces. The carport would attain a maximum height of 11.1 feet and would be located 1.5 feet from the northerly side property line and 37.5 feet from the easterly rear property line. Six commercial parking spaces are proposed, one of which would provide accessible van parking. Additional site improvements would include new landscaping, a 6-foot tall perimeter fence, and trash/utility enclosures. Design Review is required for the proposed exterior improvements.

The previous 960-square foot cafe space would be upgraded to meet universal design standards and reduced to a 945-square foot café that includes 500 square feet of public area. The proposed daily hours of operation would be between 7:00 am to 10:30 pm. A Use Permit is required for the café because the site has been vacant for over two years and any previous Use Permit has expired. The subject property is located at **860 College Avenue, Kentfield**, and is further identified as **Assessor's Parcel 074-031-36**.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 15, 2012 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 300 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 15301, Class 1 of the CEQA Guidelines because the project entails a minor addition to an existing commercial and multi-unit residential building on a developed property in a residential/commercial zone that would not result in potentially significant impacts to the environment. The proposed use is a continuance of a previous and similar use.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan due to the following factors:
- A. 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 entails the restoration of an existing building on a developed site that would not entail the removal of any mature native trees.
  - B. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because the habitat value of special status plants and animals in the vicinity is low.
  - C. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the subject property is located far enough from the shoreline to avoid being constrained by ecotones.
  - D. 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.
  - E. 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.
  - F. The project would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*) and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
  - G. The project design and conditions of approval ensure adequate fire protection (*CWP Policy EH-4.1*), removal of hazardous vegetation (*CWP Policy EH-4.2*), water for fire suppression (*CWP Policy EH-4.c*), defensible space and 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*).
  - H. The project would meet energy efficient standards for exterior lighting, and would reducing excessive lighting and glare (*CWP Policy DES-1.h*) because exterior up-lighting is not proposed and standard conditions of project approval require that lighting be downward directed.

- I. The project would preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*), as discussed below in the Design Review findings.
  - J. Marin Countywide Plan (*Policy CD-8.7*) encourages mixed-use residential development that is compatible with public facilities, natural resource protection, environmental quality, and high standards of urban design. Mixed-use developments are intended to incorporate residential units on commercial properties.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Master Plan waiver findings (Marin County Code (MCC) Section 22.44.040), because the proposed commercial space is less than 15,000 square feet and the exterior modifications are minor and incidental. As noted above, the project is consistent with the Countywide Plan. The existing structure is a non-conforming structure that was built before adoption of the current Community Plan and is located outside any resource area.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (MCC Section 22.48.040), 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**

Multi-residential dwellings are a permitted use in the RMPC zoning district. As a restaurant, the café is a conditional use that is allowed in the RMPC zoning district with a Use Permit where authorized by a Master Plan. (MCC Section 22.12.030 Table 2-6.) However, as noted above in Section V, the project is eligible for a Master Plan Waiver.

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

The project provides consistency with the Neighborhood Commercial/ Mixed Use (NC) land use designation for the project site, which encourages smaller-scale retail and neighborhood service uses in conjunction with residential development oriented toward pedestrians and located in close proximity to residential neighborhoods. The Land Use Policy Maps designate a 5-10 unit/ acre density and FAR from 10 - 35%. The existing building was constructed and previously approved for mixed commercial and residential use prior to the adoption of the Countywide Plan. While the project is consistent with the intent of the zoning district, the existing structure exceeds the 35% FAR and is non-conforming. Since the proposed renovations do not increase the nonconformance, and in fact reduce the FAR, the project is consistent with this finding. Please see Section IV above for further consistencies with the Countywide Plan.

The property is located within Subarea C - Kentfield Corners of the Kentfield/Greenbrae Community Plan. The proposed project is consistent with the policy statement for this area, which encourages mixed uses of commercial and

residential which are primarily pedestrian-oriented with low traffic and parking demands. The project is consistent with the following conservation and development standards: Upper level residential units are encouraged above commercial uses. Parking is not located within the front setbacks and is hidden in the rear of the property. Open second floor balconies, open stairways, additional windows, and other architectural features have been incorporated into the renovation design, which visually express activity. Properties with street frontage may include a zero side yard setback on at least one-side of the structure.

The Community Plan, which was adopted in May 1987, specifies that this property have a maximum floor area ratio of 35%, a one-story limit not to exceed 15 feet in maximum height above grade within 30 feet of the front property line, and a maximum height of 27 feet for two stories in the rear of a property. The existing and proposed height is below the 27-foot height limit for the rear of the property. The proposed new second-floor deck would be located within 30 feet from the front property line and meets this height limit since the deck floor would be approximately 14 feet above grade.

The existing structure was built prior to the adoption of the Community Plan, which rendered the structure non-conforming with respect to floor area, height limits within the front 30-foot setback, and 5-foot front yard setback. Pursuant to MCC Section 22.112.020.B, nonconforming structures may undergo normal maintenance/repair and conforming additions may be allowed. The proposed renovation would not increase the amount of non-conformity: The FAR would be reduced from 39.5% to 38.9% and the two-story structure would retain its existing maximum height of 29 feet within 30 feet of the front property line.

It is noted that the proposed two-story elevator addition would be located approximately 28.7 feet from the front property line and attain a height of 26.75 feet. While this would exceed the Community Plan's height limit of 15 feet within 30 feet of the front property line, the elevator is a valuable component of the project's accessibility and considered an exception to height limit, pursuant to MCC Section 22.20.060.E.4. It is also noted that the existing and proposed front awnings extend beyond the front property line. While MCC Section 22.20.090.C.1, states that no portion of a structure will extend beyond a property line, the existing awnings provide articulation and style to the building and cover from rain for pedestrians and cafe customers. The California Building Code also contains specific provisions for allowing this type of building projection into public right-of-way, subject to compliance with fire safety and overhead clearance provision, to be verified during the Building Permit process. All other proposed additions would to be consistent with the Community Plan.

**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 design, location, size, and operating characteristics of the cafe would fit into the College Avenue and surrounding neighborhood, and would be compatible with existing and future land uses. The café would cater primarily to the students and employees from the adjacent College of Marin, promoting pedestrian users. The café would be compatible with other adjoining restaurants and commercial uses in the vicinity.

Solid Waste Storage

In conformance with MCC Section 22.20.100, the project includes provisions for solid waste and recyclable materials storage that are screened and architecturally compatible with surrounding structures. However, Section 22.20.100.D recommends a minimum of 24 square feet of storage area for non-residential wastes where the project includes approximately 16.25 square feet. Therefore, as a condition of approval, the applicant shall revise the project plans to increase the storage area to meet this standard. Additionally, as further conditioned through the building permit process, the applicant will provide details of the residential and commercial waste storage areas that comply with Section 22.20.100, which shall include, but not be limited to, the concrete pad, apron, and drainage.

Driveway

The project proposes a 12-foot driveway entrance. However, Marin County Code MCC Section 24.04.260(d) states that for driveways serving non-residential uses, the minimum improved driveway width shall be 18 feet. Section 24.04.235 states "All new driveways shall be constructed to the standards set forth in this chapter except as otherwise provided herein. Under certain circumstances, reductions in these standards may be allowed in accordance with Section 24.15.010 of this title." The existing building, property line, and the proposed accessible path of travel to be installed along the side of the building limit the area available for widening the existing driveway. The proposed project has been reviewed and accepted by Kentfield Fire Protection District (memorandum dated 12/7/11). Therefore, the Department of Public Works has granted an exception to MCC 24.04.260(d), and will allow the minimum driveway width for the driveway to be reduced to 12 feet. The applicant shall maximize the width of the driveway to the fullest extent possible.

Per MCC Section 24.04.310, surfacing within city-centered corridor and village areas, requires that all driveways be paved, regardless of grade, and that the pavement section shall be in accordance with MCC Section 24.40.300. However, given the existing site conditions, the Department of Public Works will allow the driveway to remain gravel as long as the approach is paved for a distance of 30 feet.

Parking

Per MCC Section.04.340, the minimum required parking spaces are determined based on the aggregate of individual uses. The applicant has requested an exception to this code section, asking for a reduction in the minimum number of parking spaces to be provided for the uses of the building, described as a duplex and a 900-square foot café. Marin County Code Section 24.04.330 - General intent (b) states that "If particular circumstances justify an exception, the amount and

dimensions of required parking and loading spaces may be increased or decreased by the agency through design review or other appropriate process of the community development agency. Such approvals shall include a finding citing the particular circumstances and reasons why the exception was made and may also include provisions for periodic review to establish actual parking needs and to allow for revision of the parking requirements." Additionally, Section 24.04.335 - General Conditions (j) states, "When improvements are proposed for an existing improved property where the existing parking does not meet the parking requirements contained herein, the agency may require that parking be provided as required by this chapter. In such cases and at the discretion of the agency, less parking than that required may be allowed as is consistent and commensurate with the degree of improvement proposed." The application is not for new construction; historically, the existing building has provided two residential units and a café. Kentfield Planning Advisory Board supported the project in the minutes from their 10/27/2011 meeting. The property is approximately 150 feet from public transit. The project is across the street from the College of Marin and intended to attract primarily pedestrians from the school and local residents. Therefore, as conditioned, the Department of Public Works has granted an exception to MCC 24.04.340 and will allow a reduction in the number of parking spaces to be provided for the commercial use.

**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 restoration of a deteriorating building and former café would update and improve the architectural integrity and character of the neighborhood and zoning district, as further discussed in the Design Review Findings for the project.

**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.**

According to the property owner, cafes have successfully operated at this site from 1984 through 2000. The proposed size of the café and hours of operation would be similar to the previous use. The café would be subject to the Environmental Health Services regulations and permits for a restaurant. Therefore, the project would not affect the health, safety, or welfare of the community.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Design Review findings (Section 22.42.060 of the Marin County Development Code), as specified below:

**A. The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community.**

The renovation of the existing structure would be compatible with the design of the existing structures in the vicinity and would not be unsightly or create incompatibility/disharmony with the surrounding neighborhood. The proposed materials and minor additions incorporate variation in colors, windows, and decks

that would help minimize the existing structure's mass and bulk. Existing trees along the southerly side neighbor's property will continue to minimize visual impacts on neighboring properties and the community. While the height along the front of the property exceeds Community Plan standards for new development, the existing height is compatible with the scale of College of Marin structures across the street. It is noted that approximately 4.5 feet of the roof height along the street front is for a façade that provides articulation and interest. The elevator addition, expanded decks, and new transom windows would provide further articulation to help minimize the size of the existing structure. The existing roof design helps break up roof lines. The project adds universal building design and accessibility to the existing structure.

- B. The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) that will not eliminate significant sun and light exposure, views, vistas, and privacy to adjacent properties; that will not result in light pollution, trespass, and glare; and that will not adversely affect rights-of-way or pathways for circulation.**

The overall project would not result in loss of light, air, privacy, or views in the neighborhood. Further, as a standard condition of approval, all exterior lighting would be directed downward and shielded to prevent lighting impacts on nearby properties. The proposed fence along the southerly side, easterly rear, and portion of the northerly side property lines meets the design guidelines for fencing in a conventional district and is appropriate for the site. Except for a few solid sections along the side property lines, the fence would be open weldmesh on wood posts and frame.

- C. The proposed development will provide appropriate separation between buildings and will be properly and adequately landscaped with maximum retention of trees, native plants, and other natural features consistent with fire safety requirements.**

The existing commercial/residential structure retains existing setbacks and is located on the subject property with adequate separation to adjoining businesses. The demolition of the existing garage and construction of a larger carport would not interfere with development on other properties and would provide additional parking. While the project includes landscaping in the parking area, the plans do not specify whether plants are native to California, the Bay Area, or Marin. Therefore, as a condition of approval, landscape plans shall be revised to indicate which plants are native and, per Section 22.26.040.G, to incorporate native plants as much as possible in order to enhance valuable plant habitats. In addition to the proposed landscaping, the existing trees on the southerly neighboring property would continue to maintain adequate screening and privacy between the adjoining lots.

- D. The proposed development will minimize cut and fill, the reforming of the natural terrain, and appurtenant structures (e.g. retaining walls and bulkheads).**

Since the project is located largely within the footprint of existing structures on flat property, the project does not require significant cut and fill.

**E. The proposed development complies with the Single-family Residential Design Guidelines and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards).**

The project is a renovation of an existing mixed commercial and multi-family structure, and as such does not need to comply with the Single-family residential guidelines. The project complies with the following elements of the Planned District Development Standards: The proposed exterior lighting would be shielded, low-wattage, and downward directed. The exterior materials would be subdued earth-tone colors and in a varied palette and design that blend into the surrounding environment and help break up the mass and bulk of the structure. The project complies with the Development Standards' 30-foot height limit for primary structures and 15-foot limit for accessory structure. However, the Standards also call for consistency with the applicable Community Plan. As noted in Section VI.B above, the existing structure was built prior to adoption of the Kentfield/Greenbrae Community Plan, resulting in a non-conforming structure for height. As conditioned, the project will not increase the extent of non-conformity.

**F. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community.**

The project's compliance with the County's Green Building Standards will be verified during the building permit process. The project would also be required to meet California Title 24 standards and Marin County Ordinance 3492.

**G. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

As noted in Section IV above, the proposed project would be consistent with the Countywide Plan. The project would not increase the degree of non-conformity with the zoning district regulations and would not be detrimental to the public health, safety, and welfare.

## **SECTION II: ACTION**

NOW, THEREFORE, LET IT BE RESOLVED, that the Marin County Deputy Zoning Administrator hereby approves the Ghosseiri Use Permit (UP 12-6) and Design Review (DR 12-29) subject to the conditions of approval listed below. This approval authorizes the renovation of the existing structures on an 8,741-square foot multi-residential and commercial property. Approval is granted to retain two apartment units and one commercial space, thereby reducing the existing total floor area from 3,451 square feet to 3,404 square feet and resulting in a 38.9% FAR. The renovated two-story building is approved to retain the existing maximum height of 27.5 feet and have the following setbacks: 1.75 feet from the westerly front property line, 2.5 feet from the northerly side property line, 19 feet from the southerly side property line, and approximately 95 feet from the easterly rear property line. Approval is granted for the following additions: a 30-square foot addition at the northeasterly rear of the first floor apartment and a 30-square foot, two-story elevator. The project is approved to include a 125-square foot deck



addition to an existing 62-square foot deck at the rear of the ground floor apartment that would attain a maximum height of approximately 5.5 feet above existing grade and a new 352-square foot deck along the southerly side of the second floor apartment that would attain a maximum height of approximately 17.6 feet above existing grade. The existing 633-square foot garage is approved to be demolished. A 672-square foot carport is approved to attain a maximum height of 11.1 feet and to be located 1.5 feet from the northerly side property line and 37.5 feet from the easterly rear property line. Parking is approved according to the conditions of approval below. Approval is granted for additional site improvements that include landscaping, a 6-foot tall perimeter fence, and trash/utility enclosures. A 945-square foot café is approved to include 500 square feet of public area with daily hours of operation between 7:00 am to 10:30 pm. The subject property is located at **860 College Avenue, Kentfield**, and is further identified as **Assessor's Parcel 074-031-36**.

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, the appropriate Fire Protection Agency, the Environmental Health Services Division, and the water and sewer providers.

### **SECTION III: CONDITIONS OF APPROVAL**

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

#### Marin County Community Development Agency - Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as **Exhibit A**, entitled, "Lands of Ghosseiri Trust" consisting of 11 sheets prepared by Daniel Macdonald AIA Architects, Inc., dated December 2011 and two sheets prepared by L.A. Stevens & Associates, Inc. dated February 2010, all received January 12, 2012 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A-1** and shall supersede Exhibit A.
  - a. The encroachment of the awnings over the front property line is permitted, subject to the requirements of the California Building Code.
  - b. Correct plans to accurately reflect the size of the carport as 672 square feet.
  - c. Revise the landscape plan to indicate which plants are native to California, the Bay Area, or Marin. Incorporate native plants and a tall accent shrub where possible.

- d. Provide fencing detail and elevation of both perimeter fences, verifying the open mesh design of the perimeter fence identified as keynote 12 on Sheet A4.
  - e. Revise the site plan and provide details for solid waste and recyclable materials storage in compliance with MCC Section 22.20.100, including but not limited to increasing the storage area for the commercial wastes to 24 square feet and providing concrete pads, aprons, and runoff protection.
  - f. If desired by the property owner, the rear, second floor deck may be extended up to eight feet from the exterior of the master bedroom over the existing roof.
  - g. Provide architectural details including raised stucco around the windows, bellybands, and deep window reveals.
3. BEFORE ISSUANCE OF BULIDNG PERMIT, submit color sample of composition shingle roofing and store front tile for approved by the Planning Division. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as **Exhibit B**, prepared by Daniel Macdonald AIA Architects, Inc., dated October 2011, received October 12, 2011, and on file with the Marin County Community Development Agency including:
- a. Siding and trim - Medium sand plaster board, Dunn-Edwards color DEC721 Slopes LRV 46 and DEC718 Mesa Tan LRV 27
  - b. Trim, belly ban, and deck railing – Dunn-Edwards DE6084 Roxy Brown LRV 11
  - c. Windows and Doors – Wood clad and vinyl, Dunn-Edwards DEA158 Northern Territory LRV 7
  - d. Roof – Existing tile roof to remain, or replaced to match. New composition shingle to replace existing shingles.
  - e. Awning – Canvas, deep crimson
  - f. Store front – Bronze anodized aluminum frame with tile finished base wall
- All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.
4. BEFORE ISSUANCE OF A BUIDLNG PERMIT, the applicant shall pay the balance cost of staff time spent to finalize the review and processing of this Use Permit and Design Review application. The County will provide a summary of these costs upon finalizing the resolution and minutes of the public hearing.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Use Permit and Design Review Conditions of Approval as notes.
6. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.

7. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
8. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
9. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
10. The applicant shall consult with the Department of Public Works Traffic Operations to determine the feasibility of reducing to fifteen (15) minutes the maximum allowable length of time for parking in the green zone parking in front of the building. If feasible, the applicant shall apply for said parking time reduction.
11. 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 this application, for which action is brought within the applicable statute of limitations.

12. 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.
13. BEFORE FINAL INSPECTION, the applicant shall call for a Community Development Agency staff inspection of the landscaping, building materials and colors, lighting and compliance with conditions of project approval at least five business days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections.

#### SPECIAL CONDITIONS

14. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and northerly side property lines and install property line survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks prior to approval of the foundation inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit written confirmation that the staking of property lines has been properly completed and submit a written (stamped) confirmation to the Planning Division. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used to definitely measure building setbacks. It is recommended that the surveyor or civil engineer set the required setback and/or property lines with clearly marked stakes or colored line. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and northerly side property lines and the installed project foundation forms. The surveyor or engineer would then verify that the proposed project foundation complies with the approved setback distances from adjacent property lines as shown on the approved building permit plans and submit written (stamped) confirmation to the Planning Division. Please refer to the "Building Inspection Procedures" document available at the Marin County Planning Department and on-line at [http://www.co.marin.ca.us/depts/CD/Forms/Building\\_Inspection\\_Procedures.pdf](http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf) for additional details regarding this requirement.
15. 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.

#### Department of Public Works

16. DPW has granted an exception to MCC Section 24.04.340 and will allow a reduction in the number of parking spaces to be provided for the commercial use. The conditions for

granting this exception require that BEFORE ISSUANCE OF A BUILDING PERMIT plans shall be revised as follows:

- a. The number of dedicated parking spaces for the duplex shall comply with MCC Section 24.04.340(a), specifically spaces labeled R1 through R4 as depicted on sheet A4, dated December 2011.
  - b. A compliant van accessible parking stall and path of travel to the café entrance shall be provide per code, specifically space labeled C9 on sheet A4.
  - c. The project shall provide at least 4 conventional parking spaces for the commercial use, spaces labeled C5 through C8 on sheet A4; the applicant may consider space C10 viable as deemed appropriate for visibility and maneuverability within the parking area.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, revise driveway plans to comply with MCC Section 24.04.290 - Approaches, (b) which states that all approaches shall be paved to the property line or for a distance of 30 feet, whichever is greater. Additionally, the width of the driveway shall be maximized to the fullest extent possible.
  18. MCC 24.04.335(d) states that no compact spaces shall be allowed in providing the number of parking spaces required by this chapter. As such, compact vehicles shall not be allowed as the basis for a turning analysis and the depiction of vehicle maneuverability present on sheet A4.1 is not accepted. BEFORE ISSUANCE OF A BUILDING PERMIT, Sheet A4.1 shall be revised to eliminate all reference to compact cars and related diagrams demonstrating maneuverability. Turning radii and back out distances shall be provided which demonstrate maneuverability which complies with MCC 24.04.277 Turnarounds.
  19. College Avenue is a County maintained road. An Encroachment Permit from DPW is required for any work within the County's road right-of-way, including, but not limited to, utility trenching, installation of new utility connections, and modifications to the driveway apron, curb and gutter. The plans shall clearly identify all proposed work in the right of way. Additionally note that the road has been recently paved and other portions are slated for resurfacing. As such, the road is on the moratorium list and no new excavations into the road surface will be allowed.
  20. BEFORE ISSUANCE OF A BUILDING PERMIT, the application shall show the boundary of the Special Flood Hazard Zones, as mapped by FEMA on the current Flood Insurance Rate Maps, which became effective on May 4, 2009. The project appears to be entirely in an area of 0.2% annual chance of flooding. This designation does not trigger additional requirements of Marin County Code (MCC) 23.09 Floodplain Management.
  21. Per MCC 24.04.016, if construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.
  22. Per MCC 23.18.093 any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or

contaminants from construction materials, tools and equipment from entering a county storm drain system. In addition: all construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.

23. BEFORE DISTURBING THE SITE, erosion control measures shall be installed and maintained or modified to remain effective for the duration of the work.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, the site plan shall show and label all existing and proposed utility locations and tie in points for water, sewer, stormwater, power and telephone, in addition to providing the location of the existing utility access points. Reference to the Civil drawing and the topographic survey will not be sufficient; information will need to be compiled and presented together. Applicant shall identify any utilities that will require service upgrades or modification. Be aware that College Avenue is a County Maintained Road, and that an Encroachment Permit from the Department of Public Works (DPW) will be required for any work in the right of way.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, the plans shall provide the proposed slopes for the driveway to demonstrate compliance with MCC 24.04.280, and shall additionally provide a profile of the proposed driveway which extends to the centerline of College Avenue. Applicant shall identify the extent of modification to the driveway and parking area. Surfacing shall comply with MCC 24.04.310 or as approved by DPW.
26. BEFORE ISSUANCE OF A BUILDING PERMIT, provide a complete drainage and grading plan, showing and labeling all of the existing and the proposed drainage features and improvements. The plans shall be prepared by a licensed professional engineer or by a registered architect, and shall show surface drainage away from the foundation in accordance with 2010 CBC 1804.3, and section J109.4 drainage across property lines shall not exceed that which existed prior to grading. Plans shall also delineate the limit of disturbance, indicate the area to be disturbed and provide cut and fill volumes for the proposed earth work.
27. BEFORE ISSUANCE OF A BUILDING PERMIT, all improvements shall be contained on the subject property. Specifically, no portion of the footing for the curb and no drainage improvements shall extend beyond the property lines.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, add a note on the plans indicating that the Design Engineer/Architect shall certify to the County in writing upon the completion of work that all grading and drainage improvements were installed in accordance with the approved plans and field direction. Certification letters shall reference building permit number or numbers for specific work being certified, the address of the property and the Assessor's Parcel Number (APN), and shall be signed and stamped by the certifying professional. Be aware that a DPW Engineer shall inspect the work after only receipt of certification letter.
29. BEFORE ISSUANCE OF A BUILDING PERMIT, all accessible site and parking improvements shall meet State of California Title 24 accessibility standards. Plans shall provide adequate information and details to demonstrate compliance with state accessibility requirements.

30. BEFORE ISSUANCE OF A BUILDING PERMIT, show and label the accessible path of travel, delineated by a dashed or dotted line. Show path of travel from site arrival points (accessible parking stalls, bus stops & sidewalks) to entrances, and indicate special components of accessible routes (striping, signage, ramps, etc.). Dimension the width and indicate slopes both in the direction of travel and for the cross slope. Provide all details and information on the site plan for accessible parking improvements and signage.
31. BEFORE ISSUANCE OF A BUILDING PERMIT, provide the following note on the site plan "Accessible path of travel as indicated on plan is a barrier free access route without any abrupt level changes exceeding 1/2" if beveled at 1:2 max slope, or vertical level changes not exceeding 1/4" max, and at least 48" in width. Surface is stable, firm, and slip resistant. Cross slope does not exceed 2% and slope in the direction of travel is less than 5%, unless otherwise indicated. Accessible path of travel shall be maintained free of overhanging obstructions to 80" minimum and protruding objects greater than 4" projection from wall and above 27" and less than 80". Architect shall verify that there are no barriers in the path of travel."
32. BEFORE ISSUANCE OF A BUILDING PERMIT, note on plans that the Design Engineer/Architect shall verify that all accessible parking and path of travel complies with all State accessibility requirements. Construction documents must be drawn of sufficient clarity to indicate nature and extent of work associated with accessibility.
33. BEFORE ISSUANCE OF A BUILDING PERMIT, add note on plans: "Contractor to verify that all barriers in the path of travel have been removed or will be removed under this project, and path of travel complies with California Building Code 1133B."
34. BEFORE ISSUANCE OF A BUILDING PERMIT, submit Erosion and Siltation Control plan for work to be performed between October 15 and April 15, or indicate erosion control and debris barrier measures on site plan. You may refer to the Marin County Stormwater Pollution Prevention Program's website, [www.mcstoppp.org](http://www.mcstoppp.org), for suggested methods and measures under Resources for: Construction: Construction Brochures: Minimum Erosion Control Measures and Pollution Prevention- It's Part of the Plan, among others. Applicant shall provide a construction management and staging plan to be incorporated into the job site and office file plan sets. The plan shall include, at a minimum: 24 hour contact information for the site construction manager, including telephone number; the erosion and sediment control plans and stormwater pollution prevention information; the location of portable toilets and construction dumpsters; and traffic control for material deliveries.

#### Environmental Health Services

35. Applicant shall obtain the necessary permits from the Marin County Environmental Health Services for operating a café.

#### Marin Municipal water District

36. The current annual water entitlement of 0.89 acre feet is insufficient for the approved use. The purchase of additional water entitlement will be required.

37. BEFORE FINAL INSPECTION, the applicant shall provide confirmation that all the District's requirements have been met.

Kentfield Fire Protection District

38. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Fire Department have been met.

Ross Valley Sanitary District

39. The project requires a connection permit from the District. The application has the option of installing a new lateral, or have the old sewer lateral tested in the presence of a District inspector and found to meet all current District requirements.
40. BEFORE OCCUPANCY, the applicant shall provide confirmation that all the District's permits and sewer requirements are fulfilled.

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

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by: 1) obtaining a Building Permit or other construction permit, if required, for the approved work and substantially completing the improvements in accordance with the approved permits, and (2) commencing the allowed use on the property, in compliance with the conditions of approval; by **March 15, 2014**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that pursuant to Section 22.48.040, this Use Permit shall expire if the use is abandoned or ceases to operate for a two-year period or greater.

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 March 29, 2011**.



**SECTION IV: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 15<sup>th</sup> day of March 2012.



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BEN BERTO  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:



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Joyce Evans  
DZA Secretary