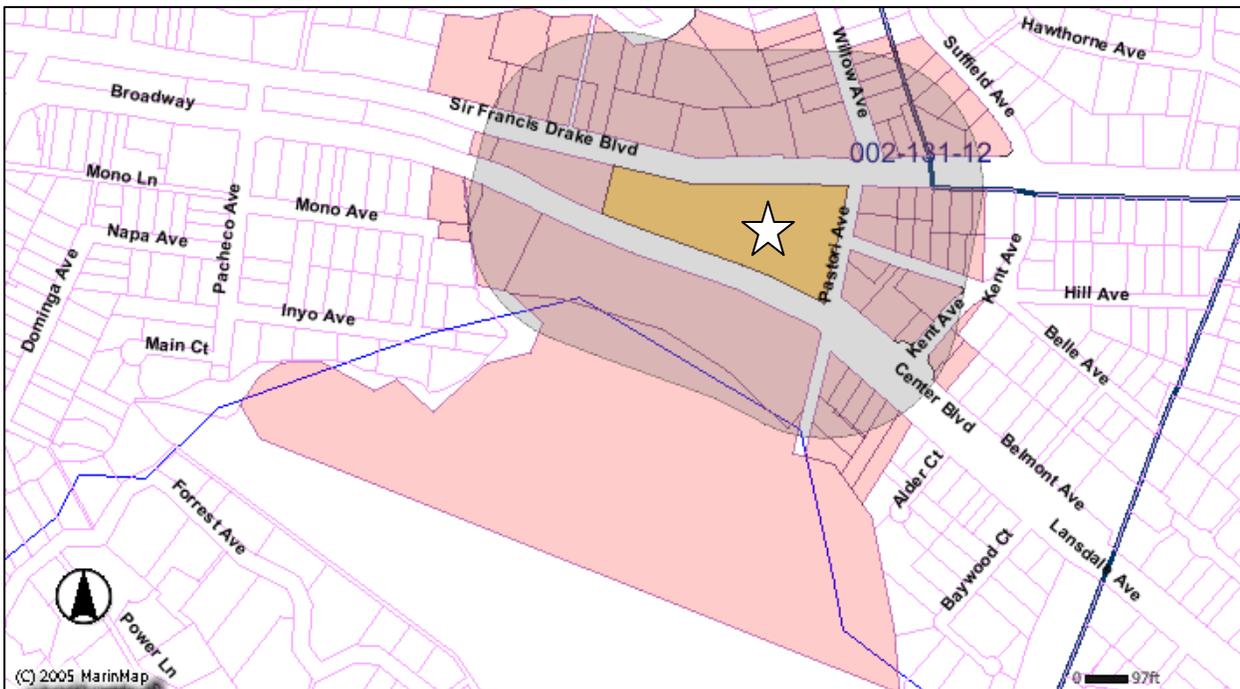


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 21, 2011
FROM: Michael Rock, Town Manager
Jim Moore, Director of Planning and Building Services
LAK Associates, Contract Planner

LOCATION: 720 Center Boulevard, Assessor's Parcel No. 002-131-12
GENERAL PLAN DESIGNATION: Highway Commercial
ZONING: (CH) Highway Commercial
PROJECT: Relocation of Good Earth grocery store to the renovated existing vacant building in Fair-Anselm shopping center
ACTION: Review Initial Study, Draft Mitigated Negative Declaration, Use Permit, and Traffic Impact Permit. Application #11-09
APPLICANT: John Fry, CDM/Real Estate Company, Inc.
OWNER: LRG Capital Group LLC
CEQA STATUS: Mitigated Negative Declaration



720 Center Boulevard

BACKGROUND

The Good Earth Market proposes relocating operations from their current store at 1966 Sir Francis Drake Blvd. (west end of Town) to the former Albertson's building in the Fair-Anselm Shopping Center at 720 Center Boulevard, Fairfax, CA. Good Earth, a provider of natural foods, has operated their current store in Fairfax since 1969. The renovated facility will include an on-site bakery, prepared food kitchen and service deli, meat/ fish/ poultry department, farmer's market/ organic produce & bulk grains department, a nutrition and health care venue, and increased selection of groceries. The proposed project will result in the renovation of the existing vacant Albertson's Grocery Store, built in 1984, to include 22,789 square feet of total space. A new clerestory roof addition will be added to the existing roof. Other outside improvements include updated paint, window additions on the south and east walls, and outdoor covered seating areas. Facilities for bicyclists will be provided on site.

The site is located in the Highway Commercial (CH) Zone, which allows supermarkets and grocery stores with a minimum of 7,500 square feet and a minimum width of 50 feet (Town Code § 17.096.040).

The project site is 2.12 acres and is relatively flat, gently sloping to the southeast. An approximate 8-foot cut slope inclined at approximately 1.5:1 (horizontal:vertical) is located to the north of the existing structure. The existing structure is approximately 21,306 square feet in size. The proposed facility will remove 177 square feet from the first floor and add 196 square feet to the first floor and 1,464 square feet to the second floor (clerestory).

There are four (4) major design enhancement elements that will be added to this building while not increasing the footprint. These include: (i) clerestory on the roof ridge that will be 30 ft. wide and 110ft long [north-south direction], (ii) new east entrance/exits with patio/ porch areas for customer seating, (iii) additional fenestration on the south and east sides of the building, and (iv) a south entrance with a 28ft high window wall.

The roof of the existing building is 23 feet high. The clerestory addition will raise the total height of the building to 28 feet 6 inches at the ridge. The propose height is consistent with the Highway Commercial Zoning.

The store will have two parking lots, the east parking lot facing Pastori Avenue will have 35 spaces and the west parking lot (entered from Center Blvd.) will have 61 parking spaces assigned to the store. The total designated parking for the store is 96 spaces. The existing parking areas will be resurfaced. The Fair-Anselm center has 248 total spaces (north and south of Center Blvd.). The lighting for the parking lots will replace the current 35 foot high light standards with new 18 foot high sodium light fixtures (including a concrete pedestal). The new light fixtures will have a foot-candle target range of two (2) to five (5) foot-candles for a level light distribution. The fixtures will have cutoff luminaries with no more than 2.5% rated lumens above the 90% angle to reduce nighttime glare.

The existing sewer system will be upgraded with a grease interceptor (1,500 gallons). The restroom fixtures will have low flush water, electric eye activated faucets, and all staff hand sinks will be knee operated with automatic shut-offs. All wash-down areas will have automatic shut-off hoses.

The existing electrical feeds to the building will be replaced with new transformers to eliminate

the overhead electrical lines. New electrical lines will be undergrounded. New switchgear, meeting the current Electrical Codes, will be installed with capacity for 1,600 amps.

Waste management system modifications include upgrading the current operations by adding a cardboard baler, a 10-cy waste compactor with deodorizer system, and a recycle storage holding area. Equipment will be placed on the loading dock (which will remain in its current location) and screened with new fencing.

Site landscaping will be enhanced with eleven parking lot planter islands, planting strips, and three (3) landscaped nodes located at the store entrances. The north hillside adjacent to Sir Francis Drake Blvd. will be planted with oak trees and planting plan including a low-water plantings and drip irrigation system.

Two (2) "pocket parks" are proposed for the west parking lot. One is proposed adjacent to the Java Hut and the other will be located at a mid-point of the west wall of the store. A "bikers" rest stop is proposed for the southeast corner of the west parking lot, including a trellis and amenities for bicycle riders, including an air pump.

Landscaping is proposed in the parking lots to act as effective bio-swales for storm water treatment. Pervious concrete pavers are proposed for the east entrance patio area. Stormwater run-off from the roof and parking lots will be directed into parameter bio-swales to reduce the existing storm water run-off to 0.24 cubic feet per second (cfs).

There will two seating areas including a wood trellis for shade across the front expanse of the building. The outdoor seating will require a Use Permit. There will be a bicycle rest stop and an electric car charging station will be located in the west parking lot.

The color palette for the new store will consist of earth tone paints from Benjamin Moore (BM) and Scofield. The window frames will be brushed dark bonze with all insulated glass. The clerestory will be a standing seam metal roof painted a BM Sierra Tan with a BM Black Bean Soup color for the fascia. Walls of the clerestory will be painted BM Roxbury Caramel. New and existing roof components, including metal, will be painted a BM Tan. The existing solid concrete walls on the east and south side of the building will be painted Scofield Antique Amber. The wall plane will be broken up with windows to cover more than 80%. The stone panels on the west wall will be retained and will introduce a stucco finished wainscoting. Both portions will be painted Scofield Antique Amber.

The proposed project would not require a zone change.

DISCUSSION:

The purpose of this public hearing is to allow the Planning Commission to review the Initial Study, Draft Mitigated Negative Declaration, Use Permit and Traffic Impact Permit for the proposed Good Earth/Fair-Anselm redevelopment located at 720 Center Boulevard. The Good Earth proposes to operate the new facility with a total of 22,789 square feet on the property.

The Good Earth market has been a local fixture in Fairfax since 1969. The relocation of their operations to the new facility will increase the overall square footage and improve access and parking for the store. The renovation and use of the existing structure will take advantage of a vacant facility and will provide a unique focal point for residents and visitors entering Fairfax

from both Center Boulevard and Sir Francis Drake. The new store will be painted in earth tones, primarily greens and tan colors. The new main entrance on the south side of the store will feature tables and seating as well as access ramps for disabled persons. There will also be benches and a communal picnic table on the western side of the building.

The new store will provide three principal entrances/exits to the store. One nearest the Pastori/Sir Francis Drake intersection, one off Center Blvd. for access to the south parking lot and one off Center Blvd. to access the north parking lot. Drive aisles have been reduced to 15 feet and circulation patterns have been reconfigured to provide one-way directional driving according to the parking plan. Access and circulation is also designed to minimize vehicle staging along Center Boulevard. The Fire Department has requested a 20 foot access road be provided to within 150 feet of all portions of the first floor exterior wall.

The landscaping plan includes introducing native species and shade trees as well as landscaped areas and porous paving to act as bio-swales for stormwater retention and treatment. The landscaping plan has been designed to reduce the current rate of stormwater run-off from the site. 12 oak trees will be planted on the earthen berm separating the north parking area from Sir Francis Drake Blvd.

The Initial Study/Draft MND, prepared by LAK Associates, a consultant working for the Town of Fairfax, has determined that there are no potential impacts that would be considered significant. The project is consistent with the Town of Fairfax General Plan and Zoning for the property and is suitable use for the existing on site structure. Use patterns for the proposed store are consistent with previous uses of the property and there is ample parking and access provided to the site. The Initial Study/Draft MND found no significant cumulative impacts related to the proposed project.

Several potential environmental issues, including potential traffic impacts, can be reduced to a less significant level by incorporating mitigation suggested by the Applicant's consultants. The traffic consultant for the project and the Town's peer reviewer, Parisi Associates, have agreed upon reasonable mitigation measures and traffic count criteria to reduce potential traffic impacts.

Copies of the project plans and technical reports were submitted to the Ross Valley Fire Department, Sanitary District No. 1, the Marin Municipal Water District, Marin County Environmental Health, Fairfax Police Department, and Fairfax Public Works. Public review copies were placed in the Fairfax Branch of the Marin County Public Library and the Town Hall.

Traffic Impact Permit

Recommended Findings

(A) The intersections on the major street system adjacent to the proposed project deliver peak hour traffic conditions that meet adopted Town of Fairfax minimum standard for Level of Service D threshold. Therefore, the project's average daily traffic, when added to the existing daily traffic, plus projected traffic will not cause the performance of intersection of roadway linkages to fall below the acceptable level of service or otherwise further reduce the system performance if it is already below the acceptable level of service; nor will it cause a significant degradation in service levels for impacted intersections at their peak traffic periods.

(B) (1) The traffic impact permit mitigation plan approved by the Planning Commission and Town Council will adequately mitigate the project's adverse traffic impacts.

(2) This plan is consistent with the goals and objectives of the Fairfax general plan or applicable specific plans and the intent of the zoning district in which the project is situated, and of this chapter.

(C) The project will provide an overriding public benefit that will sufficiently offset its adverse traffic impacts.

Note: Any affirmative decision of the Planning Commission or the Town Council based upon this finding must be approved by a five-sevenths majority of the Planning Commission and a four-fifths majority of the Town Council. The grounds for making this finding must be set forth in the approving motion.

Use permit

The use of the tables and seating for outdoor dining will all be self serve except for limited service of food and beverages during special events. Outdoor dining will only occur during the store business hours from 9:00 AM to 9:00 PM.

Recommended Findings

(A) The proposed outdoor dining areas are located on private property and do not require the use of the public right-of-way. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

(B) Outdoor dining hours will be the same as the store hours from 9:00 AM to 9:00 PM. Therefore the outdoor uses of the property. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

(C) Delicatessens and restaurants are permitted uses in the Highway Commercial CH Zone where the project site is located [Town Code sections 17.096.040(27) and (63)]. Town Code § 17.096.050(2) allows the Commission to grant Use Permits for permitted uses that do not occur entirely within a building. Therefore, approval of the use permit for outdoor dining is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the Zoning Ordinance, or other plan or policy, officially adopted by the City.

(D) Approval of the use permit will allow an existing business to relocate into a currently dilapidated building, bring it into compliance with current Building Codes and retrofit it and the parking lot, while continuing to have an outdoor dining area where patrons can eat the food from the stores prepared food kitchen as they do at the existing store. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

RECOMMENDATION

1. Open the Public Hearing and take testimony.
2. Close the Public Hearing.
3. Move to approve Resolution No. 11-09, approving the requested Use Permit, the Traffic Impact Permit, the Initial Study and recommending that the Town Council adopt the Mitigated Negative Declaration and approve the proposed project with conditions and the mitigation measures enumerated in the Initial Study.

ATTACHMENTS

1. Conditions of Approval
2. Initial Study/Mitigated Negative Declaration
3. Project Description
4. Architectural Plans/Elevations/Cross Sections
5. Landscape Plan/Planting Plan/Irrigation Plan
6. Civil Engineer Site Plan and Parking Lot Layout
7. SIMKAR Photometric Study with Specifications for Light Standards, dated 2/15/11
8. Oberkamper Hydrology Analysis, dated 2/24/11
9. RMJ Letter (Structural Modifications), dated 2/15/11
10. Delcon Letter (Title 24 compliance), no date
11. Shelly Acoustical Noise Study (Executive Summary), dated 2/17/11
12. I&R Air Quality Study (Executive Summary), dated 2/18/11
13. CAC Asbestos Study/Work Plan (Executive Study), dated 10/8/10
14. MPEG Seismic and Geotechnical Study (Executive Summary), dated 11/3/10
15. KDA Traffic report (Executive Summary) with peer review responses, dated 3/1/11
16. Site Pictures (two views)
17. Visual Simulations (two key observation points)
18. Memo from Ross Valley Fire Department, dated 4/5/11
19. Memo from Marin County Environmental Health Department, dated 3/11/11
20. Letter from Marin Municipal Water District, dated 3/18/11

Conditions of Approval

1. Must comply with all mitigation measures identified in the Initial Study and Mitigated Negative Declaration.
2. Further analysis of the drywall and joint compound using the Point Count Method would be necessary to confirm that the asbestos content of the composite material is less than 1% asbestos. The alternative is to treat materials as RACM and remove it in accordance with BAAQMD requirements.
3. In accordance with Title 8, California Code of Regulations (CCR) Section 1529, the Asbestos in the Construction Industry Standard and NESHAP/BAAQMD Regulation 11, Rule 2, the drywall joint compound and texture, floor mastic and transite panels require removal and proper disposal prior to demolition/renovation activities that would impact those materials. A copy of the CAC report shall be submitted to the BAAQMD when applying for a renovation permit for the site.
4. A licensed geotechnical engineer shall review the plans and specification for the project when they are nearing completion to confirm the intent of the geotechnical recommendations provided in the MPEG report have been incorporated, and if needed, suggest supplemental recommendations. A licensed geotechnical engineer shall also be present during construction to observe and/or test site preparation and grading. The engineer shall also observe foundation excavation for the structures and associated improvements to confirm that the soils encountered during construction are consistent with the design criteria outlined in the MPEG report.
5. Site preparation and grading shall conform to the recommendations and criteria set forth for Site Grading in the MPEG report, Page 4.
6. New structures and features shall be designed in accordance with the provisions of the California Building Code (CBC). Based on the interpreted subsurface conditions of the site, the CBC Coefficients (Table C, page 5, MPEG report) shall be used to calculate the design base shear of the proposed improvements.
7. The project sponsor shall verify the structural integrity of the existing structure. If new foundations are required, they should be designed utilizing the shallow foundation design criteria given in Table D (MPEG report, page 6).
8. To improve performance of the flooring, a water sealant shall be applied to the concrete slab prior to placing water based adhesive. A consultation with a flooring manufacturer is recommended
9. The walls of the 1,500 gallon grease interceptor shall be designed to resist the lateral soil and hydrostatic pressures as indicated in Table E (MPEG report, page 7).
10. As described in the ECS report, the proposed project will not result in operational or construction activities that would be considered significant impacts of exceed the Town of Fairfax noise planning standards. The following mitigation measures are suggested to reduce individual noise events impacts in nearby receptors areas.

11. For long term operations of the store, delivery trucks shall turn-off engines while unloading products at the loading dock.
12. During the construction phase of the project, the project sponsor shall choose construction equipment that is of quiet design, has a high-quality muffler system, and is well maintained. This includes trucks and equipment used to haul materials to and from the site.
13. All construction vehicles shall have installed superior mufflers and engine enclosure panels as needed on gas, diesel or pneumatic impact machines.
14. During construction, the project sponsor shall erect temporary plywood enclosures around stationary equipment that produce excessive noise at nearby receptors.
15. Construction hours shall be restricted to 8am to 5pm Monday thru Friday.
16. Eliminate unnecessary idling of machines when not in use.
17. The project sponsor shall employ good maintenance and lubrication procedures to reduce operating noise.
18. The project sponsor shall, if possible, locate equipment as far from sensitive receptors as possible.
19. Sign the two exits from the eastern parking lot (Pastori Avenue) as "right turn only".
20. Move the Pastori Avenue driveway as far to the south from Sir Francis Drake Blvd as is feasible (20 feet).
21. The project shall contribute its "fair share" to the cost of improving the two intersections where LOS deficiencies are projected in Year 2016 whether the project proceeds or not. The fair share should be based on the project's traffic as a percentage of the total volume occurring in the future. For example, the net new trips generated by the project are **4.2%** of the total traffic through the Broadway / Center Blvd / Pacheco Avenue intersection under adjusted Year 2016 condition. If a traffic signal was selected, the Good Earth project should contribute 4.2% of the cost of signaling the Pacheco Avenue intersections on Center Blvd and on Sir Francis Drake Blvd, which is estimated at roughly \$500,000. Thus, the project's fair share is \$21,000.

Similarly, the net new trips generated by the Good Earth project are 9.1% of the total traffic through the Center Blvd / Pastori Avenue intersection under adjusted Year 2016 conditions. If a traffic signal is selected as the ultimate solution, the cost of signaling this intersection is roughly \$250,000, making the project's share \$22,750.

22. Provide on-site bicycle parking facilities, as proposed, including racks space for 20 bikes, a Bike Rider Rest Station, air pump, and area bike trail map.

Ross Valley Fire Department

- 1 Provide a 20 foot access road within 150 feet of all portions of the first floor exterior wall (CFC Section 503.1.1)
- 2 At least one of the required access routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building.
- 3 Access shall be provided to within 50 feet of the required fire department connection (FDC) to the sprinkler system.
- 4 Revise the Site Plan to indicate the relation of the FDC to the closest hydrant.
- 5 Prior to the issuance of the construction permit, approval of the construction documents by the Fire Department is required.
- 6 Prior to the issuance of the construction permit, references to the 2010 California Fire Code (with local amendments) shall be included in the construction documents.

Marin Municipal Water District

- 1 Purchase additional water entitlement (above the current entitlement of 1.70 acre-feet).
- 2 Upgrade the dedicated fire line connection to current District standards.
- 3 Prior to obtaining water service, plans for compliance with the District's Water Conservation Ordinance 414 shall be submitted to the District for review to confirm compliance.
- 4 Prior to obtaining water service, an analysis of backflow protection shall be submitted to the Backflow Prevention Program Coordinator. Should backflow protection be required, said protection shall be installed as a condition of water service.

Marin County Environmental Health Department

- 1 Prior to the start of any new construction or remodeling, a complete set of plans drawn to scale shall be submitted to Environmental Health Services for review and approval.

Planning and Building Services

- 1 Collect and assess weekend traffic data.
- 2 Identify trip generation rates at existing Good Earth Market.
- 3 Participate in transportation mode survey.
- 4 Prepare summary memo for 1-3 above, submit to Planning and Building Services.
- 5 There shall be no cleaning/hosing of floor mats outside the building.
- 6 The applicants shall obtain sign permits and building permits before erecting any signs on the building.
- 7 The applicant shall submit a letter of credit or bond to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation prior to issuance of a building permit. The amount shall be retained for 18 months after the project has its final inspection and all the landscaping and irrigation is installed.
8. This approval is limited to the development illustrated on the plans prepared by William S. Bagnall Architects Inc. pages A-0, A-1, A-2, A2.1, A-3, A-4, A-5, A-6, A-7, A-8, A-9 and A-10, parking plan layout page C-1, by Oberkamper & Associates Civil Engineers Inc., and the Landscape Plans, pages L1.0 and L2.0 by Roth Lamotte Landscape Architecture.

- 9 Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access routes
 - b. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director/ the Public Works Director can waive this requirement).
 - c. Submit a bond to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a bond or letter of credit equaling 100% of the estimated construction costs and pay for the Town Engineer's time to review and confirm the contractor's estimate.
 - d. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
10. During the construction process the following shall be required:
 - a. The geotechnical engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended.
 - b. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
 - c. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
11. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the grading and drainage elements have been installed in conformance with the approved parking lot landscaping plans and the recommendations of the soils report.
 - b. The Planning Department shall field check the completed project to verify that all de-

sign review and planning commission conditions have been complied with including installation of landscaping and irrigation.

12. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

13. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.

14. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 637 (Chapter 8.32 of the Town Code), "Urban Runoff Pollution Prevention".

15. Notwithstanding section # 17.072.050 of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of application # 11-09. Any construction based on job plans that have been altered without the benefit of an approved modification of application 11-09 will result in the job being immediately stopped and red tagged.

16. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.

17. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.