

**RESOLUTION NO. 11-03
APPLICATION NO. 11-09**

720 CENTER BOULEVARD; ASSESSOR'S PARCEL NO. 002-131-12

A Resolution of the Fairfax Planning Commission Approving a Use Permit for Outdoor Dining and the Traffic Impact Permit and Recommending that the Fairfax Town Council adopt the Mitigated Negative Declaration for the Project Including all the Mitigation Measures Enumerated in the Initial Study

WHEREAS, the Town of Fairfax has received an application for 720 Center Boulevard to relocate operations from 1966 Sir Francis Drake Boulevard to the Fair Anselm Shopping Center at 720 Center Boulevard; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 21, 2011 at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, the applicant has met the burden of proof required to support the requested discretionary permits and has shown that potential environmental impacts can be mitigated to a level of insignificance the following findings have been determined:

I. The proposed development is consistent with the General Plan as follows:

Policy 2.1.1: That Center Boulevard and Sir Francis Drake Boulevard are declared scenic highways and that they represent a visual value in the planning area and should be preserved as unified open space and urban features.

The proposed project will include renovation of the abandoned Albertsons building including resurfacing the parking lot to include significant landscaping islands, new outdoor dining areas that visually break up the large expanses of the building and a clear story roof to further articulate the unbroken planes of the building and screen rooftop equipment. Therefore, the project complies with the above referenced scenic highway policy of the Scenic Highways Element.

Policy 4.1.6: Areas of significant visual value as identified on the Visual Resources Map shall be preserved.

Above ground electrical feeds will be replaced with new transformers to eliminate the overhead electrical lines and new electrical lines will be undergrounded eliminating the visual blight of these improvements from the critical entryway to Town at the northeast corner of the site. Therefore, the project complies with the above referenced Conservation Element.

Policy 4.1.7: Stream courses and their adjacent environs shall be preserved to enhance water quality and maintain an area of high wildlife and aquatic diversity.

Policy 4.2.1: Businesses which have the potential to pollute streams shall be identified and methods taken to control pollution:

The proposed project will include the addition of landscaping areas including bio-swales to allow the percolation into the ground and purification of run-off water to ensure the preservation of the water quality and quantity in the nearby San Anselmo Creek. Therefore, the project complies with Policy Numbers 4.1.7 and 4.2.1 of the Conservation Element.

Policy 4.4.3: The significance of Fairfax's central business zones is recognized and measures should be taken to preserve the character and enhance the area.

The measures being taken to upgrade and add articulation to the existing building and retrofit the parking area with landscaping islands and paving and striping upgrades will enhance the area and comply with Policy Number 4.4.3 of the Conservation Element.

Policy 4.5.3: All new construction should provide for energy conservation:

The store interior improvement will include a complete remodel including insulated windows, upgraded equipment, energy saving lighting and heating and air conditioning as well as mechanical refrigeration with a computer controlled energy management system. Therefore, the project will comply with Policy 4.5.3 of the Conservation Element.

Policy 5.7.2, Environmental Safety Element, Measures such as adequate access, water facilities, vegetation, clearance around structures, building spacing, construction materials, refuse removal, etc. shall be considered in any development proposal.

The project will include mitigation measures to ensure the proper removal and disposal of identified asbestos materials in the building. Therefore, the project complies with policy 5.7.2 of the Environmental Safety Element.

Policy 5.1.2: To minimize the risk to human life from structures located in hazardous areas.

The project includes seismic upgrades to the existing structure so therefore, the project complies with Policy 5.1.2 of the Environmental Safety Element.

II. The proposed development is consistent with the Fairfax Zoning Ordinance as follows:

(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 by allowing the local health food store to remain in Town to serve the citizens of Fairfax.

(D) 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.

(E) 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, 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.

(F) 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.

(G) 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.

III. The project will upgrade an existing dilapidated structure, make it more energy efficient, eliminate the urban parking lot surrounding the existing building and allow a growing local business to stay in Tow. Therefore, a significant public benefit is provided by the project as proposed.

Now, THEREFORE, the Planning Commission of the Town of Fairfax does hereby resolve as follows:

Section 1. After careful consideration of the site plan, architectural drawings, plans, Initial Study, Draft Negative Declaration and other exhibits submitted in connection with this matter, the Commission hereby approves the proposed project.

PASSED AND ADOPTED by the Town of Fairfax Planning Commission, State of California, this 21st day of April 2011 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

Chair, Planning Commission

ATTEST:

Jim Moore, Director of Planning and Building Services