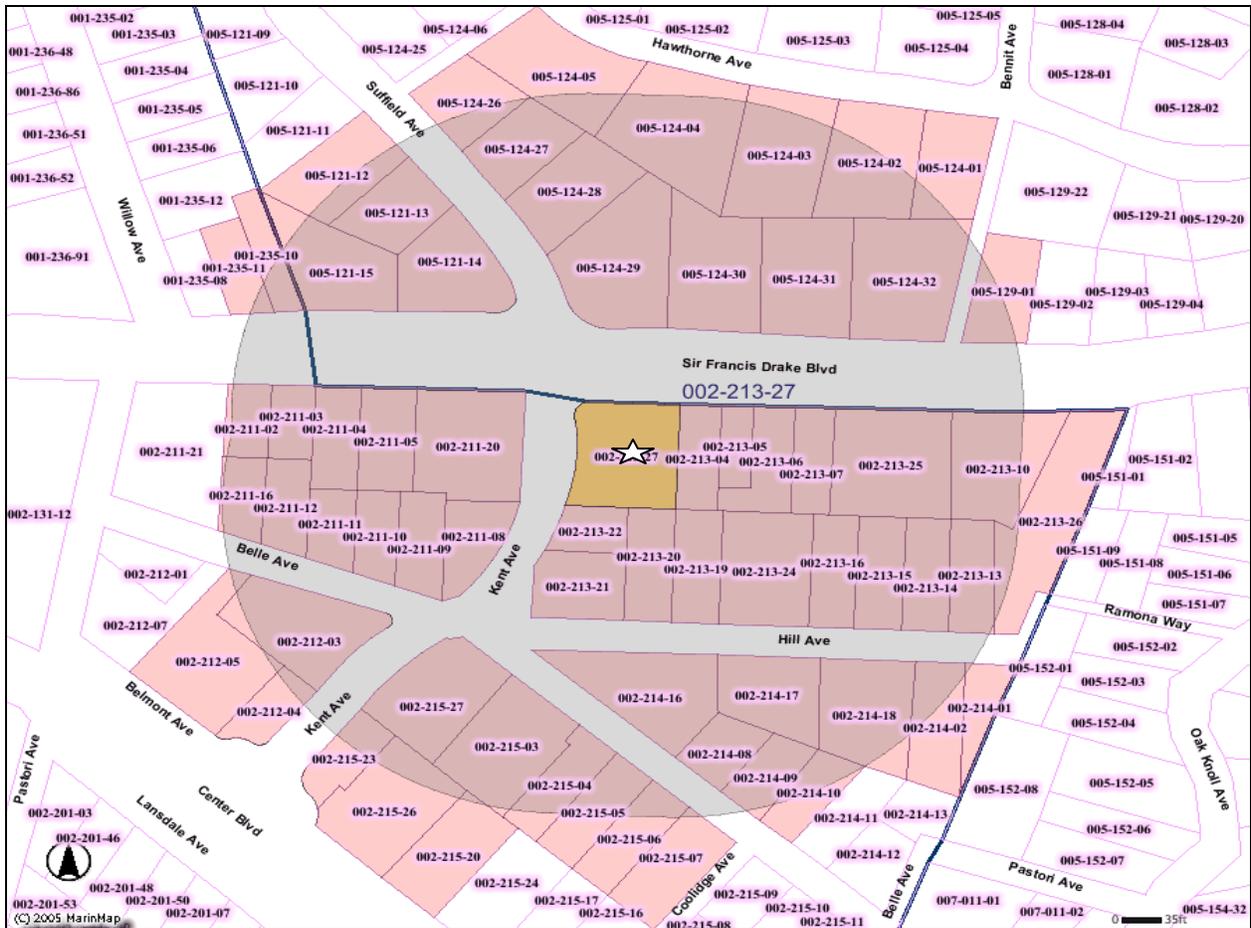


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** June 20, 2013  
**FROM:** Jim Moore, Director of Planning and Building Services  
 Linda Neal, Senior Planner  
**LOCATION:** 1599 Sir Francis Drake Blvd.; Assessor's Parcel No. 002-213-27  
**PROJECT:** Use of an existing commercial building for retail and a multi discipline exercise facility  
**ACTION:** Use Permit, Design Review and Parking Variance; Application # 13-99  
**APPLICANT:** Doug and Jill McIntosh  
**OWNER:** Isetta Family Trust  
**CEQA STATUS:** Categorically exempt, 15301(a)



## 1599 SIR FRANCIS DRAKE BOULEVARD

## **BACKGROUND**

The 9,898 square foot site has a 1 % slope and is developed with a 5,617 square foot building that used to house a tack and feed store and a group of artists studios. Town records indicate that the building was constructed prior to the Town's incorporation in 1931.

The eastern 4,218 square feet of the site is a parking lot.

## **DISCUSSION**

The applicants are proposing to remodel and convert the building into 3,600 square feet of area for use by the Dailey Method while retaining the remaining 2017 square feet for retail use.

The Dailey Method is a one-hour fitness program that combines pilates, yoga, ballet and orthopedic exercises. It is a franchise business but it will be owned and operated by the applicants who are also the co-founders of the program and who live in neighboring San Anselmo.

Business hours will be from 6:30 am to 7:30 pm Monday through Thursday and from 8:00 am to 5:00 pm on Fridays, Saturdays and Sundays. Typically there are no clients will visit the site between 12:30 pm to 3:45 pm each day.

The parking lot will be striped to provide 11 parking spaces, one of them will be accessible, and the travel aisle width will be 21 feet.

Minor exterior changes will be made to the building including, removal of two (2) doors, replacement of all the windows, a new gate at the rear of the structure, fresh exterior paint, a new sign and landscaping planters.

The proposal requires the approval of the following discretionary permits:

### **A Use Permit**

The property was rezoned Central Commercial CC Zone with the adoption of the 2010-2030 Fairfax General Plan in April of 2012. Physical fitness businesses are not included in the list of permitted uses in the CC Zone District. Town Code § 17.100.050(H) gives the Commission the authority to approve Use Permits to allow uses not listed to operate in the CC Zone.

The purpose of the Use Permit process is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations or only if designed in a particular way. In considering a Use Permit application, the Commission shall give due regards to the nature and condition of all adjacent uses and to the public health safety and welfare.

The proposed use is located on the corner of Sir Francis Drake Boulevard and Kent Boulevard with a residence to the south and a multi use property to the east developed with a retail commercial space at the front and residential units at the back.

The proposed 1 hour fitness use will not create the need for excessive amounts of parking, will not be noisy and will not significantly impact traffic in the area. Therefore, the proposed use will not conflict with the surrounding neighborhood uses.

In reviewing the proposed use permit the Commission must also take into consideration the formula business nature of the business.

Town Code § 17.100.160 defines a formula business as any business that is required by a corporate headquarters or franchise or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs or other similar features.

The Dailey Method is a franchise with similar 1 hour fitness locations across the country. They also have standardized signs and services. The franchise proposed at 1599 Sir Francis Drake Boulevard will be locally owned and operated by Marin residents.

In order to operate a franchise business in the CC Zone the Commission must be able to answer the following questions affirmatively (*Staff's findings follow in bold, italicized font*):

1. Is this a pedestrian oriented business, consistent with the CC Zone?

***The small size and location of the business will cater to local residents many of whom will walk or ride their bike to exercise classes.***

2. Is it likely that significant revenues from this business will be derived from residents of the Upper Ross Valley, San Geronimo Valley and Central West Marin areas?

***Another Dailey Method is located in Corte Madera and it is doubtful that people located closer to the Corte Madera business will drive farther to attend the Fairfax Daily Method. Therefore, it is likely that most of the clients will be local and their membership dues will come from the Upper Ross Valley, San Geronimo Valley and Central West Marin Areas.***

3. Is it likely the business will provide services and products which satisfy the day-to-day needs of residents of the Upper Ross Valley, San Geronimo Valley and Central West Marin areas?

***There are no other businesses offering 1 hour fitness programs in Town and with the busy schedules people keep these days, 1 hour programs are sought after.***

4. Is this a smaller scale business in terms of number of customers commensurate with the character of the CC Zone?

*The size of the building will dictate the number of clients that can attend any class and the building and proposed use will not generate visits to the area of numbers of persons out of character with the numbers visiting other similar sized establishments in the CC Zone.*

5. If the business consistent with the unique character of Fairfax?

*The business offers a unique fitness program that combines pilates, yoga, ballet and orthopedic exercises providing a workout that fits in with the unique character of Fairfax.*

6. Is it likely this business will provide services or products which complement existing businesses in the CC Zone?

*Persons often run errands on their way to and from working out and will result in visits to nearby drycleaners, grocery stores, restaurants, etc. complementing and resulting in increased business for other existing businesses in the CC Zone District.*

7. Is there a need for this type of business in Town, given the existence or the number of same or similar businesses in Fairfax?

*There is a need for a business providing a 1 hour workout/fitness program. There is no other business providing such a program in Town.*

8. Is the proposed location of this business appropriate, given the type of use and the proximity of the same or similar businesses?

*See # 7 above.*

If it likely this business will not cause one or more existing businesses in Town to fail?

*There other fitness businesses in Town provide gym type services with aerobic classes, free weights, power lifting, stationary bicycles, etc. It is not likely that the proposed use will cause these other fitness businesses to fail because it provides such a different path to fitness.*

Will this business keep residents from having to drive out of Town for day-to-day needs?

*Yes.*

### **Traffic Impact Permit**

Town Code § 127.056.050 required a Traffic Impact Permit for any reuse of an existing structure where the new use will generate 100 average daily trips or more beyond that generated by the prior use. The project was determined to have the potential to generate 100 average daily trips more than the previous tack and feed/artist studio use so the project requires the approval of a Traffic Permit.

The applicants traffic engineer submitted the attached traffic study dated June 11, 2013 by W-

Trans which indicated that although the use will generate 339 total new trips per day this amount of increased traffic will not result in any significant impacts on the major intersections identified for study by the Town Council when they adopted the methodology for the traffic study on April 3, 2013 (Exhibit D – traffic study methodology). In fact the increased traffic will only result in delays of 0.0 to 0.3 seconds resulting in changes that will be imperceptible to motorists at the Sir Francis Drake Boulevard/Kent Avenue, Sir Francis Drake Boulevard/Pastori Avenue and Sir Francis Drake Boulevard/Pacheco intersections (note that traffic counts were taken earlier this year when school was in session).

Therefore, the findings required in Town Code 17.056.110, to approve the traffic impact permit can be made as follows:

- 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.

The applicants have provided a turning radius analysis demonstrating how vehicles can exit the site driving forward onto Sir Francis Drake Boulevard which is how vehicles exist the site now. They do need to back onto the adjacent property which vehicles using the site have been doing for many years. Therefore, staff is recommending that the Commission include as a condition of approval, the formalization of the reciprocal access and egress easements for the buildings at 1585 through 1599 Sir Francis Drake Boulevard.

### **Parking Variance**

Town Code § 17.100.110(B)(2)(a) requires that uses in the CC Zone have one (1) parking space for each 200 square feet of gross floor area. In order to comply with the parking regulations this 5,617 square foot building would require twenty-eight (28) parking spaces.

Only one class will be held at a time in the larger unit of the building with the number of persons attending each class not exceeding 13 and a maximum of three staff members will be on site at any one time. There are eleven parking spaces on the site.

The applicants have indicated that they expect to draw most of their clientele from nearby areas and some of their clients will walk or bike to the site and/or carpool.

The traffic study estimates that a retail use will generate 22 trips per day spread throughout the day.

Town Code § 17.028.070(B) sets forth the required findings for a Parking Variance as follows:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulation.

2. Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.
3. Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

Staff does not expect the proposed use, with class sizes of thirteen (13) persons or less, with a maximum of three (3) employees on site at a time and the potential of customers visiting the

2,017 square foot retail space to create a significant need for parking beyond the eleven (11) spaces provided.

### **Design Review**

Town Code § 17.100.030 requires design review approval for all exterior changes proposed in the Central Commercial Zone District.

The applicant proposes removing doors on the east, west and south sides of the building, patching and repairing the stucco and painting it and the flashing a "putty" color.

All the windows on the building will be replaced with dark bronze colored aluminum fenestrated windows.

New six (6) foot solid wood gates will be installed on the east and west sides of the building securing access to a narrow alley at the rear of the property.

The trees along the western side of the building that appear to have outgrown the location will be removed and four (4) galvanized horse trough planters will be placed along the western side of the building.

The proposed exterior changes comply with the Design Review Criteria set forth in Town Code § 17.020.040.

The applicants have submitted a sign application for a business identification sign that will be located on the corner of the building and which complies with the sign ordinance and does not require Planning Commission review and approval.

### **Easement**

There are multiple buildings located to the east of the site at 1585, 1589 and 1591 Sir Francis Drake Boulevard that use the parking lot on the site to access the rear of the commercial spaces fronting on Sir Francis Drake Boulevard as well as parking for the residential units at the rear of 1585 Sir Francis Drake Boulevard. Vehicles exiting the project site parking lot have also used the area to the rear of 1591 Sir Francis Drake Boulevard to turn around. This use of the parking lot by the other properties use of 1591 Sir Francis Drake Boulevard by clients of 1599 Sir Francis

Drake Boulevard to make the three point turns necessary to exit the lot facing Sir Francis Drake Boulevard has never been formalized. Staff recommends that an easement to provide permanent reciprocal access easements be created prior to the project final inspection and issuance of the occupancy permit.

## **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to adopt Resolution No. 13-05 approving a Use Permit for a Formula Business and Parking Variance and Traffic Impact Permit for the project and recommending that the Town Council also approve the Traffic Impact Permit based on the findings and subject to the conditions contained in the resolution.

## **ATTACHMENTS**

Exhibit A – applicant’s supplemental information

Exhibit B – Other Agency/Department comments

Exhibit C – June 11, 2013 Traffic Analysis by W-trans

Exhibit D - Parisi Associates letter of approval dated 6/14/13 (Town Traffic Engineer)

Exhibit E - Traffic Methodology approved by the Town Council on 4/3/13

Exhibit F – e-mail from applicant indicating willingness to grant permanent reciprocal easements

## RESOLUTION NO. 13-5

### **A Resolution of the Fairfax Planning Commission Approving the Use Permit for a Formula Business, Parking Variance and Traffic Impact Permit to Allow the Operation of a Daily Method Exercise Facility to Operate at 1599 Sir Francis Drake Boulevard**

**WHEREAS**, the Town of Fairfax has received an application to relocate operate a Dailey Method exercise facility at 1599 Sir Francis Drake Boulevard; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on June 20, 2013 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Traffic Impact Permit, Use Permit and Parking Variance; and

**WHEREAS**, based on the traffic study and other documentary evidence in the record, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary permits.

**WHEREAS**, the Commission has made the following findings:

1. The proposed Dailey Method business providing a 1 hour long workout method will fit in and not conflict with any of the other businesses or residential uses in the immediate neighborhood. 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.
2. The business hours of operation are from 6:30 am to 7:30 pm Monday through Thursday and from 8:00 am to 5:00 pm on Fridays, Saturdays and Sundays. The business is operated entirely within a building and is not expected to create any excessive noise. Therefore, the approval of the Use Permit 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.
3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the

protection or enhancement of the general health, safety or welfare of the community.

5. The proposed exterior changes comply with the Design Review Criteria set forth in Town Code § 17.020.040.
6. Neither present nor anticipated future traffic volumes generated by the use of the site for the Dailey method program and an adjacent retail store or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.
7. Granting of the variance will not result in the parking or loading of vehicles on Sir Francis Drake Boulevard in an unsafe manner or in such a manner as to interfere with the free flow of traffic.
8. The applicants have submitted a turning radius analysis demonstrating that vehicles can maneuver in the parking lot in such a manner as to avoid vehicles backing onto Sir Francis Drake Boulevard. Therefore, granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of the Fairfax Zoning Ordinance.
9. The small size and location of the business will cater to local residents many of whom will walk or ride their bike to exercise classes.
10. The only other Dailey Method is located in Corte Madera. Therefore, it is likely that most of the clients will be local and their membership dues will come from the Upper Ross Valley, San Geronimo Valley and Central West Marin Areas.
11. There are no other businesses offering 1 hour fitness programs in Town 1 hour programs are sought after. The opening of a business offering a 1 hour fitness program will not take business from the other fitness businesses in Town.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The planters shall be planted with drought tolerant native plants and shall be maintained in an acceptable condition.
2. The trash can located on the eastern side of the bus stop shall be relocated if possible because it hinders visibility through the bus stop enclosure.
3. The abandoned public phone shall be removed from the site.
4. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.

5. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
6. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Design Review Board (when required).
7. The applicant or permit holder 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 Town Council, Planning Commission, Planning Director, Design Review Board or any other department, committee, or agency of the Town concerning a development, variance permit or other land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permit holders duty to so defend, indemnify, and hold harmless shall be subject to the Town promptly notifying the applicant or permit holder.
8. The applicants shall obtain a tree removal permit from the Tree Committee prior to removing the trees on the western side of the building.
9. There are multiple buildings located to the east of the site at 1585, 1589 and 1591 Sir Francis Drake Boulevard that use the parking lot on the site to access the rear of the commercial spaces fronting on Sir Francis Drake Boulevard as well as parking residential units at the rear of 1585 Sir Francis Drake Boulevard. This use of the parking lot by the other properties has never been formalized. Staff recommends that an easement to provide permanent access be created prior to the project final inspection and issuance of the occupancy permit.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

1. The approval of the Use Permit and Parking Variance can occur without causing significant impacts on neighboring businesses or residences.
2. The Project's average daily traffic will not cause the performance of intersection or 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.
3. The Traffic Impact Permit required by Chapter 17.56 of the Town Code is hereby granted and the Project is approved, subject to compliance with the conditions of approval listed above and all applicable Town Code requirements.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 20<sup>th</sup> day of June 2013, by the following vote:

AYES:

NOES:

ABSENT:

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Chair, Shelley Hamilton

Attest:

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Jim Moore, Director of Planning and Building Services

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