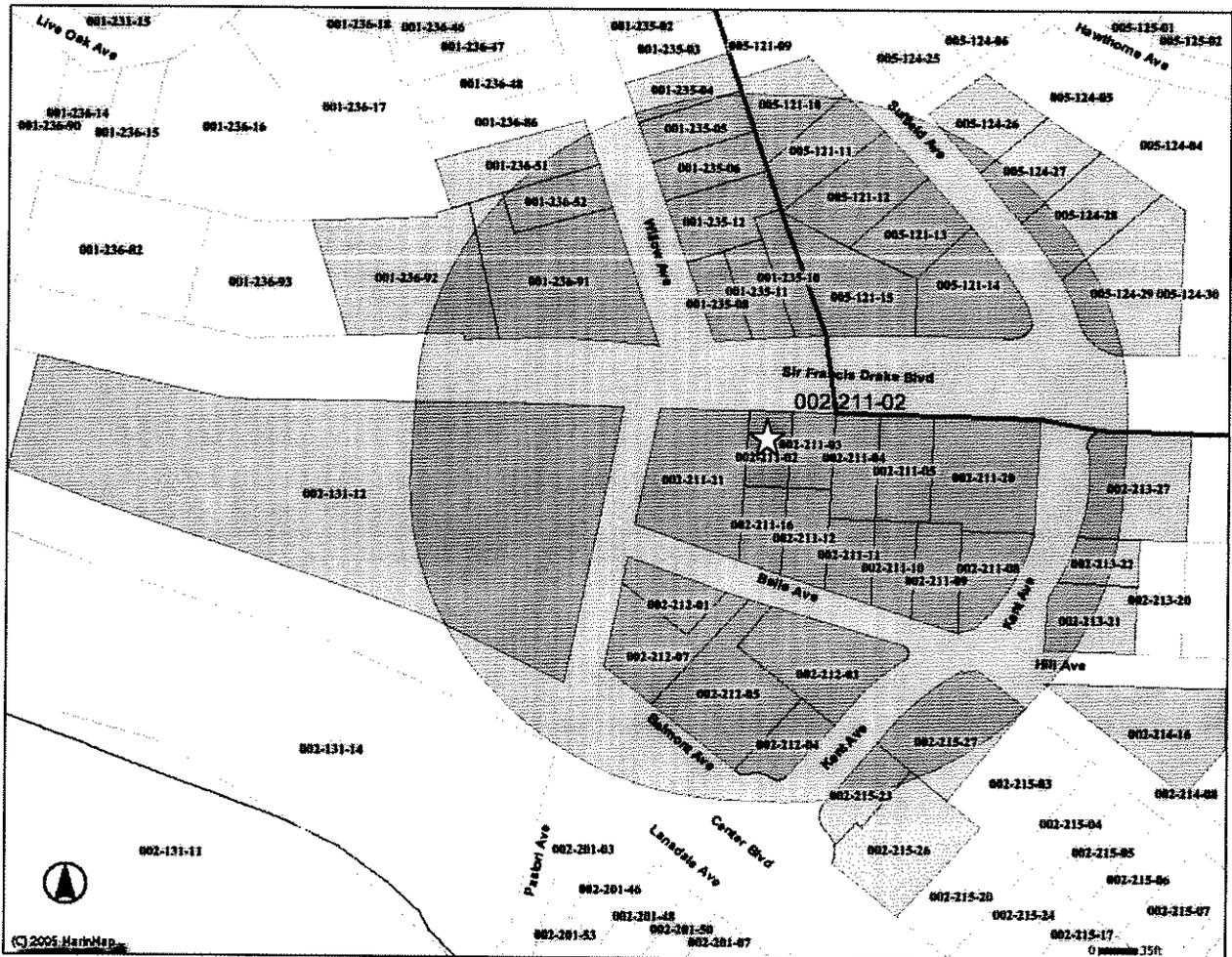


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: September 19, 2013
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Principal Planner
LOCATION: 1621 Sir Francis Drake Blvd.; Assessor's Parcel No. 002-211-02
PROJECT: Acupuncture Clinic
ACTION: Use Permit and Parking Variance; Application 13-27
APPLICANT: Genevieve LeGoff
OWNER: William Lehrke
CEQA STATUS: Categorically exempt, §15301



1621 SIR FRANCIS DRAKE BOULEVARD

BACKGROUND

The 1,300 square foot structure on this 2,720 square foot, nearly level, site was constructed as a single-family residence in 1920 prior to the Town's incorporation in 1931. The structure was most recently used as a contractor's office.

There are three tandem parking spaces in the driveway of the property.

DISCUSSION

The site is located in the Central Commercial CC Zone District which allows retail commercial use on the ground floor and offices only on the second floor.

Operating an acupuncture clinic from the site requires the approval of the following discretionary permits:

A Use Permit – The property is located in the Central Commercial CC Zone District where Town Code § 17.100.050(D) requires a Use Permit for office uses on the first floor.

A Use permit:

The Fairfax Town Code, section 17.100.010, described the purpose of the Central Commercial CC Zone District, as follows:

"The Central Commercial Zone is the central business district and the retail commercial heart of the town. It should contain the most valuable land and structures, on a square foot basis, of any zone in the town. The development of the CC central commercial zone caters to and invites pedestrian traffic. Store frontages tend to be continuous and driveways, blank walls and other conflicts with or deterrents to foot traffic tend to be minimized".

The purpose of the conditional use permit is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or in a zone or only if the uses are designed or laid out on the site in a particular manner [Town Code § 17.032.010(A)].

In considering an application for a use permit the Planning Commission shall give due regard to the nature and condition of all adjacent uses and to all pertinent aspects of the public health, safety and general welfare.

The current business hours are Mondays through Friday from 10:00 AM to 6:30 PM although the applicant is to start seeing some patients on Saturday.

The structure to the east of the site is developed with a residential tri-plex, there is a restaurant to the west, a single-family residence to the south and a duplex, architects office and mixed residential/commercial use north of the site across Sir Francis Drake Boulevard. Due to its

limited hours and the amount of traffic expected to be generated by this small chiropractic clinic, the use will not conflict with any of the surrounding uses.

As already stated this structure was built as a single-family residence and the front windows do not lend themselves to window displays. The clinic will bring clients to Fairfax that will shop and dine in the downtown.

Parking

Town Code § 17.052.030(F) requires that three (3) parking spaces be provided for the first 500 square feet of a personal service business, and one (1) additional space be provided for each additional 500 square feet of area. Therefore, this 1,300 square foot structure requires four (4) parking spaces. The site has three tandem on-site parking spaces. Town Code § 17.100.110(C)(2) allow the Commission to vary the parking for Conditional Uses by the terms, provisions and conditions of the Use Permit.

The proposed clinic use will have a limited number of visitors at any one time. The business owner, an acupuncturist, only works Monday, Wednesday and Friday and will soon also be open on Saturdays. The massage therapist she works with provides services Tuesday through Friday. As stated above their hours are 10:00 AM to 6:30 PM. The massage therapist only sees one patient at a time while the applicant sees no more than two patients at a time. Therefore, the maximum number of persons that might be on site at any time will be five (5) and Tuesdays, Thursdays and Saturdays there might be two (2) to three (3) persons on site.

The above facts coupled with the realty that there is no room on this site to provide additional parking, warrants granting the use permit. If parking for the use does become a problem for neighboring uses, the Use Permit can be reviewed for possible amendment to the conditions of approval.

Other Agency/Department Conditions

Building Department

The building is required to be accessible and comply with the Americans with Disabilities Act. The applicant is advised that any applications for building permits will be subject to compliance.

No other agencies commented on this proposed use.

RECOMMENDATION

Move to approve application # 07-48 based on the following findings and subject to the following conditions:

Recommended Findings

Use Permits have repeatedly been granted by the Commission in the past to allow office and service uses on the first floor of other structures that were built as residences and subsequently zoned Central Commercial. 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.

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.

Town Code § 17.100.050 gives the Commission the authority to grant use permits for office or service uses when they will not negatively impact the neighborhood or surrounding businesses. The proposed use will not negatively impact the surrounding uses. Therefore, approval of the use permit is not contrary to those objectives, goals or standards contained in the Zoning Ordinance.

Approval of the use permit will result in equal or better development of the premises than would otherwise be the case because the proposed use will not increase the parking need beyond that of the previous contractor's office which had three employees and clients visiting the site.

The 2,718 square foot site is too small to provide any additional parking.

The proposed use will have a limited number of visitors at any one time. Although zoned Central Commercial, the building is located at the outskirts of the very active downtown commercial area where parking is not in such a great demand and on-street parking is available in the vicinity. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require the strict interpretation of the parking regulations.

The granting of this Use Permit and exception to the parking requirements will not result in the parking or loading of vehicles on public streets in a manner so as to interfere with the free flow of traffic on Sir Francis Drake Boulevard.

Recommended Conditions

1. The applicant 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 ground and the pavement surfaces.
2. 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.

3. 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).
4. 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.
5. The applicant shall obtain a sign permit prior to erecting any business identifications signs on the site.

ATTACHMENTS

Exhibit A - Applicant's supplemental information

PROJECT DESCRIPTION: I would like to get a use permit to run an acupuncture clinic at 1126 San Francisco Drake. I have been operating for 3 years at 8 Bolinas Road, as Between Heaven & Earth Acupuncture and Herbs. I am simply looking to move my clinic and purchase 1126 SFO.

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size	2,718 sqft	
Size of structure(s) or commercial space (square feet)	approx. 1,300 sqft	
Height and No. of stories		
Lot coverage		
No. of dwellings units		
Parking ¹ No. of spaces	3	
Size of spaces		

Amount of proposed excavation and fill	Excavation =	Fill =
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Estimated cost of construction \$ _____

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade and all impervious surfaces except driveways.

¹Minimum parking dimensions are 9' wide by 19' long by 7' high. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? _____

Will [Signature]
Signature of Property Owner

Genevieve [Signature]
Signature of Applicant

7/16/13
Date

07/14/13
Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584

Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

I would like to use the space as my acupuncture office; at the busiest times (3 days/week) there would be myself plus one massage therapist. On those three days (Monday, Wednesday, Friday) we would expect at the most 2-3 patients per hour. Usually it's closer to 1-2 patients. On other days 1 patient per hour is to be expected, between 10 AM - 6:30 PM which are my daily hours of operation. We have 3 parking spaces so don't have a big need for street parking given our low volume.

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- 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.

other medical facilities (Dragon Heart Healing Center for example) have obtained this use permit in this CC zoning.

- The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

Since this is an acupuncture practice, we are very quiet! We close at 6:30 PM and as we are low-volume, do not expect parking to be an issue.

- 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, development plan or other plan or policy, officially adopted by the town.

The town recently changed the zoning of this area to CC. This use seems coherent with the goals of inviting commerce to this area, while being very low-impact for the adjoining community.