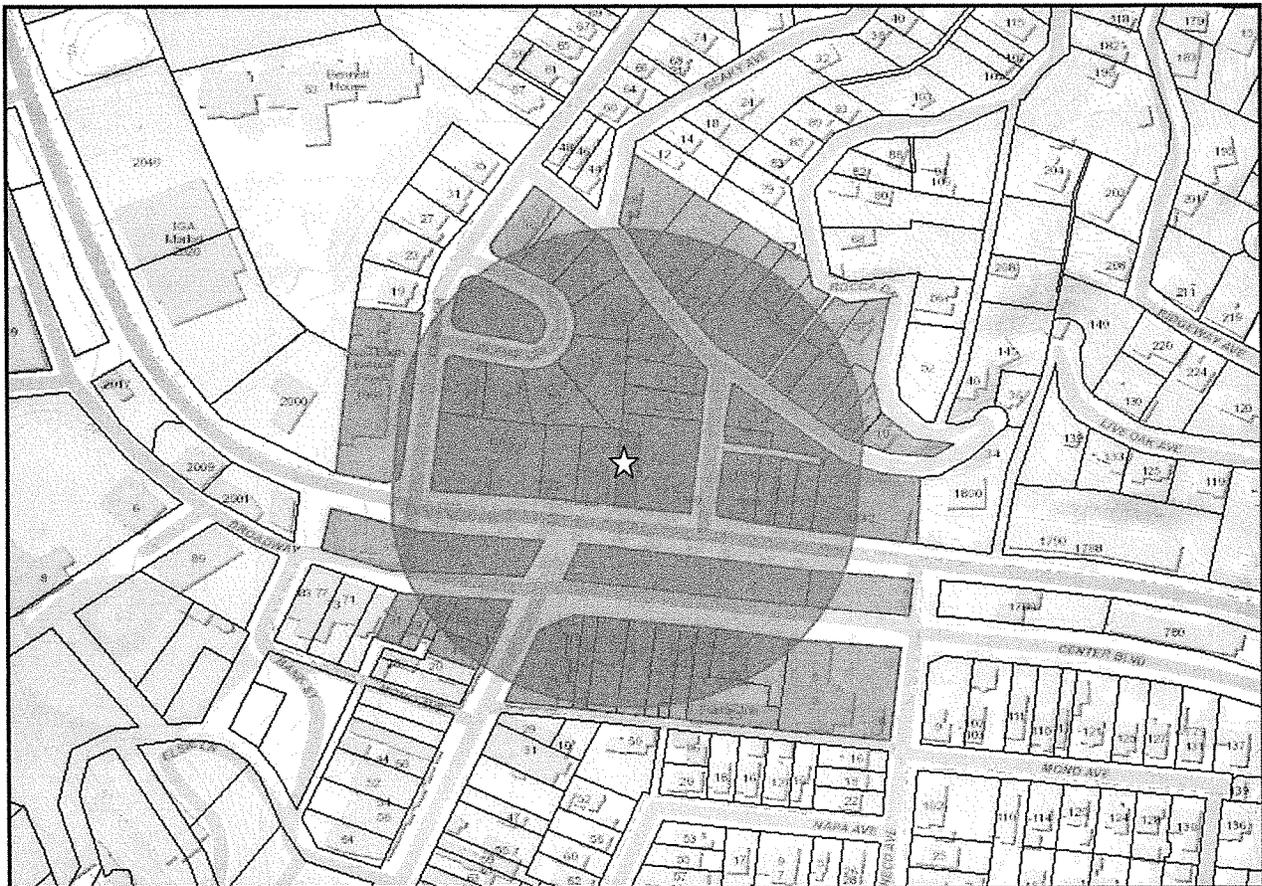


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Planning Commission
DATE: March 20, 2014
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
PROJECT: outdoor dining area
ACTION: Use Permit; Application # 14-10
ADDRESS: 1912 Sir Francis Drake Blvd (Lotus Café.); Assessor's Parcel No. 001-223-12
ZONING: Central Commercial CC Zone
APPLICANT: Paul Surinder
OWNER: Charles Peri, Sr.
CEQA STATUS: Categorically exempt, § 15301(a)



1912 SIR FRANCIS DRAKE BOULEVARD

BACKGROUND

The existing building was constructed prior to the Town's incorporation in 1931 and contains two separate commercial spaces. One of the spaces is currently being rented by a hair salon and the other is developed as the Lotus Café restaurant.

DISCUSSION

The site is located in the Central Commercial CC Zone District. Town Code § 17.100.050(A) indicates that a Use Permit must be obtained from the Planning Commission for principal permitted uses not conducted within a building. Town Code § 17.100.050(54) indicates that restaurants inside buildings are permitted uses so the outdoor dining portion of the restaurant will require a Use Permit.

The Lotus Café owner proposes placing 6 tables outside in the rear yard of the restaurant with seating for 26. The tables and chairs will be wrought iron and the table will have 11 foot, cloth sun umbrellas over them

The outdoor tables have been located immediately adjacent to the rear of the restaurant maintaining an 10 foot 1 inch setback from the rear fence which abuts residentially zoned and developed properties on Taylor Drive and Claus Circle. The hours of operation from 11:30 AM to 9:00 PM will not negatively impact any of the surrounding commercial enterprises or neighboring residential properties. New lighting will be located around the perimeter of the dining area and will be directed downward to minimize impacts on neighboring residences. The rear area will be made accessible by the construction of access ramps and a new accessible bathroom will be constructed.

Other restaurants in Town have approved Use Permits for outdoor seating including the Iron Springs Brewery, Good Earth Grocery store, the adjacent Peri's Deli, and the Sleeping Lady Cafe on Broadway across the Parkade. Therefore, the approval of this Use Permit will not be a grant of special privilege.

Other Agency Comments/Conditions

Ross Valley Fire Department

The fire alarm system must be extended into all areas of the interior tenant improvements prior to serving patrons outdoors.

The restaurant space must be equipped with a fire sprinkler system approved by the Ross Valley Fire Department.

Marin County Environmental Health Services (EHS)

Project plans must be reviewed and approved by EHS prior to issuance of the building permit to construct the accessible ramps and bathroom.

Ross Valley Sanitary District

If not already installed the side sewer shall be equipped with an appropriate backwater prevention device. Either the existing or the new side sewer shall be inspected and be approved by a District inspector prior to the building permit final inspection.

Marin Municipal Water District

All indoor and outdoor improvements and any landscaping material and irrigation must comply with MMWD District Code Title 13.

Should backflow protection be required it shall be installed and be inspected by the Water District prior to the building permit final inspection.

Signs

The sign program for the restaurant is currently out of compliance with the Sign Ordinance. The business has 4 signs including two window signs. The code only allows two signs, one on the building and one projecting sign [Town Code 17.064.050(B)]. The two window signs shall be removed prior to issuance of the building permit to bring the business into compliance with the Sign Ordinance.

RECOMMENDATION

Move to approve application # 14-10 based on the following findings and subject to the following conditions:

Recommended Findings

1. 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 because other restaurants and businesses in the Town provide outdoor seating.
2. The restaurant outdoor seating will not be used outside the business hours from 11:00 AM to 9:00 PM and no outdoor activities are proposed for the area other than dining which will not cause excessive noise. 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.
3. The Town Code gives the Commission the authority to grant Use Permits for permitted uses that are not operated entirely within a building as long as the uses will not negatively impact the citizens or surrounding properties [Town Code

§ 17.100.050(A)]. A review of the proposed location, design of the outdoor furniture, lighting and hours of operation has resulted in the Commission determining the proposed outdoor eating area will not have a significant negative impact on the Town and/or its citizens. Therefore, 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 for outdoor dining will result in equal or better development of the rear yard than would otherwise be the case, and the accessibility improvements that the project will include are in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

Recommended Conditions

1. Any plant material installed in the outdoor seating area and any new bathroom fixtures shall comply with MMWD's District Code Title 13.
2. The fire alarm system must be extended into all areas of the interior tenant improvements prior to serving patrons outdoors.

3. The restaurant space must be equipped with a fire sprinkler system approved by the Ross Valley Fire Department.
4. Project plans must be reviewed and approved by EHS prior to issuance of the building permit to construct the accessible ramps and bathroom.
5. If not already installed the side sewer shall be equipped with an appropriate backwater prevention device. Either the existing or the new side sewer shall be inspected and be approved by a District inspector prior to the building permit final inspection.
6. All indoor and outdoor improvements and any landscaping material and irrigation must comply with MMWD District Code Title 13.
7. Should backflow protection be required it shall be installed and be inspected by the Water District prior to the building permit final inspection.
8. The two window signs shall be removed prior to issuance of the building permit to bring the business into compliance with the Sign Ordinance
9. The applicant shall obtain a sign permit for any new signs that may be erected on the building.
10. The applicant shall maintain the premises in a neat and attractive manner at all times and such maintenance shall include, but not be limited to exterior building materials, signage, windows, the planters and planting beds, the ground, patio and pavement surfaces.
11. 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, the Garbage and Rubbish Disposal Ordinance, the Stormwater Management and Discharge Control Program Ordinance and the Clean Indoor Air and Health Protection Ordinance.
12. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or

incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

13. Conditions placed upon the project by outside agencies may be eliminated or amended with that agencies written verification of the eliminated or modified condition(s) to the Planning Department prior to issuance of the building permit.

ATTACHMENTS

Exhibit A – applicant's supplemental information

Exhibit B – Other Agency/Department comments/conditions

December 4, 2013

TOWN OF FAIRFAX

James M. Moore, Planning Director
Town of Fairfax, Planning Department
142 Bolinas Road
Fairfax, CA 94930

DEC 05 2013

RECEIVED

RE: Outdoor Seating Proposal
Café Lotus – 1912 Sir Francisco Drake Blvd., Fairfax, CA 94930

Dear Mr. Moore:

With this letter, please find the drawings and application for a use permit for Café Lotus. Surinder (Pal) Sroa (415-250-2148, surindernewlight@aol.com), the Owner, will be working with Stewart K. Summers (415-382-1656, stewart@sksarch.com), the Architect.

Mr. Sroa has been operating the acclaimed Lotus Cuisine restaurants in Marin County since 1998. Hailing from the Indian state of Punjab, he brought his authentic, home-style Northern Indian cuisine to Marin and captured the coveted Best Indian Restaurant in the North Bay from Zagat. His organic Indian café in Fairfax is a unique oasis where Northern Indian cuisine with organic ingredients and fresh spices, many imported from India, are all beautifully presented in a casual, friendly atmosphere.

It is a hugely successful eatery in Fairfax with very little seating (approximately 20). A large portion of Fairfax customers must drive to the location and fight for parking or have meals delivered because there is no seating. This proposal for a use permit would allow Café Lotus to have outdoor seating. Most of the seating would be in the back area that is underutilized. A few tables would be placed out front.

Café Lotus's hours of operation are 11:30 a.m. to 9:00 p.m. The proposed hours for the rear patio are the same. Café Lotus employs five (5) employees on any given night. No additional lighting in the rear will be added and if additional lighting were deemed necessary, it would be the minimal amount so as not to disturb any neighbors with lighting pollution. Café Lotus does not want to change or add any signage. The cost of improvements are estimated to run around \$25,000.

Mr. Sroa has requested the best contact information from the Owner/Manager and a copy of the title report for the property. The Owner of the property is very supportive of this use permit application and improvements to the property. Mr. Sroa will also need assistance from the City of Fairfax planning staff to generate a list of all neighbors within 300 feet of Café Lotus. Mr. Sroa stands ready to send out notices to his neighbors within the "Notification Map."

Thank you for your assistance in this matter and we look forward to working with you and the City of Fairfax.

Very truly yours,

Robert L. Elam, Esq.

EXHIBIT # A

PROJECT DESCRIPTION: ADD EXTERIOR CONCRETE PATIO W/ TABLES AND SEATING FOR 32 PEOPLE. ADD EXTERIOR LIGHTING, CREATE NEW RAMP ACCESS TO REAR PATIO. INTERIOR REMODEL TO INCLUDE NEW CORRIDOR, ACCESS ALCOVE, AND ADA ACCESSIBLE RESTROOM. ADD (2) TABLES

Item	Existing	Proposed
Lot size	2,739.6 S.F.	2,739.6 S.F.
Size of structure(s) or commercial space (square feet)	747 557 = 1,304 S.F.	1,304 S.F.
Height and No. of stories	1	1
Lot coverage	71%	91.7%
No. of dwellings units	0	0
Parking ¹ No. of spaces	0	0
Size of spaces	0	0

DUE TO IMPERVIOUS SURFACE

Amount of proposed excavation and fill	Excavation = 0	Fill = 0
--	----------------	----------

Estimated cost of construction \$ 25,000

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? NONE KNOWN

Charles Peri
Signature of Property Owner

Signature of Applicant

12-07-13
Date

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



Ross Valley Fire Department
777 San Anselmo Ave
San Anselmo, Ca 94960
Ph. 415-258-4686

FIRE DEPARTMENT PLAN REVIEW

PROJECT: Lotus Café
ADDRESS: 1912 Sir Francis Drake Blvd
Ross CA, 94930

Page: 1 of 2
Date: 02/06/2014
Reviewed by: Rob Bastianon
(415) 258-4673

TYPE OF REVIEW: Commercial E-mail: Rbastianon@rossvalleyfire.org
Bldg. Dept. 01/22/14 Fire Dept. # 14-0033 Review No. 1
Fire Department Standards can be found at: www.rossvalleyfire.org

Applicant*: David Schneider
Address: 415-302-9724

***Applicant is responsible for distributing these Plan Review comments to the Design Team.**

Occupancy Class: B	Fire Flow Req: 3000 GPM	Sprinklers Required: YES
Type of Construction:	On-site Hyd. Req: NO	Fire Alarm Required: YES
Bldg Area: sqft:	Turn-Around Req: NO	Permits Required: Sprinkler
Stories: 1+	Fire Flow Test Required: NO	Alarm
Height: +ft.	Wildland Urban Interface: NO	

The project listed above has been reviewed and determined to be:

- APPROVED (no modifications required)
- APPROVED AS NOTED (minor modifications required - review attached comments)
- NOT APPROVED (revise per attached comments and resubmit)
- INCOMPLETE (provide additional information per attached comments and resubmit)

NOTE: Please review the comments and make corrections and/or add notes as required. Changes and/or additions shall be clouded and referenced by date on a legend. Approval of this plan does not approve any omission or deviation from the applicable regulations. Final approval is subject to field inspection. Approved plans shall be on site and available for review at all times.

ROSS VALLEY FIRE DEPT.
REVIEWED
DATE: 2-6-14

Inspections required:

- Access/Water Supply prior to delivery of combustibles
- Defensible Space/Vegetation Management Plan
- Sprinkler Hydro/Final
- Final

EXHIBIT # B



Ross Valley Fire
Department
777 San Anselmo Ave
San Anselmo, Ca 94960
Ph. 415-258-4686

FIRE DEPARTMENT PLAN REVIEW

PROJECT: Lotus Café
ADDRESS: 1912 Sir Francis Drake Blvd
Ross CA, 94930

Page: 2 of 2
Date: 02/06/2014
Reviewed by: Rob Bastianon
(415) 258-4673

TYPE OF REVIEW: Commercial E-mail: Rbastianon@rossvalleyfire.org
Bldg. Dept. 01/22/14 Fire Dept. # 14-0033 Review No. 1
Fire Department Standards can be found at: www.rossvalleyfire.org

ITEM #	SHEET	COMMENTS	Corr. Made
1		A fire sprinkler system and fire alarm system are required for this project.	
		Submitter's Response: Correction has been completed. See Sheet ___ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	

*If re-submittal is required, all conditions listed above shall be included in revised drawings.
Fire and life safety systems may require a separate permit. Fire permits may be noted as deferred.*

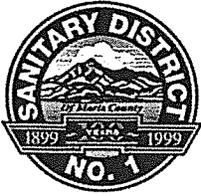
Linda Neal

From: Robert Bastianon [rbastianon@rossvalleyfire.org]
Sent: Friday, January 31, 2014 2:16 PM
To: Linda Neal
Subject: lotus

Hi Linda, I have run out of time to get you the formal letter. but everything is going to meet minimum fire code requirements. conditions are that the entire building shall be sprinkled throughout and monitored by a UL central station alarm.

--

Rob Bastianon
Fire Inspector
Ross Valley Fire Department.
777 San Anselmo Ave
San Anselmo, CA 94960
(415) 258-4686 office
(415) 258-4673 direct
(415) 258-4689 fax



ROSS VALLEY SANITARY DISTRICT
2960 Kerner Blvd
San Rafael, CA 94901
(415) 259-2949 ~ rvsd.org

RECEIVED

FEB 19 2014

TOWN OF FAIRFAX

Feb 17, 2014

Linda Neal, Senior Planner
Town of Fairfax
Dept of Planning and Building Services
142 Bolinas Road
Fairfax, CA 94930

SUBJECT: 1912 SIR FRANCIS DRAKE BLVD, FAIRFAX, CA; APN 001-223-12

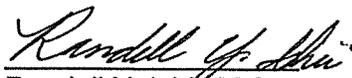
Dear Ms. Neal:

We are in receipt of your transmittal letter dated January 22, 2014 concerning the above-referenced project. The District has no objection in general, but has the following comments and requirements if the project is approved:

1. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device (e.g., Contra Costa valve as warranted by the individual site conditions).
2. After the project is approved, the owner or contractor should contact the District to arrange for a District inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device and any work done on the side sewer lateral in order to make a record for the District's files.

If you need further information regarding this matter, please contact the office.

Sincerely,


Randell Y. Ishii, M.S., P.E.
District Engineer



MARIN MUNICIPAL WATER DISTRICT

RECEIVED
JAN 13 2014
TOWN OF FAIRFAX

220 Nellen Avenue Corte Madera CA 94925-1169
www.marinwater.org

January 6, 2014
Service No. 04206

Linda Neal
Town of Fairfax Planning Dept
142 Bolinas Rd
Fairfax CA 94930

RE: WATER AVAILABILITY - Single Family Dwelling
Assessor's Parcel No.: 002-025-06
Location: 127 Dominga Ave, Fairfax

Dear Ms. Neal:

The above referenced parcel is currently being served. The purpose and intent of this service are to provide water to a single family dwelling. The proposed elevation of the existing structure by two feet to allow the remodel of 360 square feet of the basement, creating a family room, full bathroom and laundry closet, will not impair the District's ability to continue service to this property.

Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 – Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. You can also find information about the District's water conservation requirements online at www.marinwater.org.

Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

If you have any questions regarding this matter, please contact me at (415) 945-1532.

Sincerely,

Joseph Eischens
Senior Engineering Technician

JE:mp

cc: Town of Fairfax Building Dept

**TOWN OF FAIRFAX
DEPARTMENT OF PLANNING AND BUILDING SERVICES**

142 Bolinas Road, Fairfax, California 94930
Phone (415) 453-1584 FAX (415) 453-1618

RECEIVED
DEC - 9 2013
Environmental Health

LETTER OF TRANSMITTAL

RECEIVED

DEC 12 2013

TOWN OF FAIRFAX

14-19
PV

From: Fairfax Planning and Building Services Department

Date: December 6, 2013

- To: Town Engineer Fairfax Police Dept. Marin County Open Space Dist.
 Town Attorney Sanitary Dist. 1 Other – Building Official
 MMWD Public Works Dept.
 Ross Valley Fire Marin County Health Dept. *ENV.*

Address and Parcel No: 1912 Sir Francis Drake Boulevard; Assessor's Parcel No. 001-223-12

Project Description: conversion of a rear, outdoor, storage area behind an existing restaurant into 455 square feet of outdoor seating that will accommodate up to 32 diners and a remodel of 84 square feet of the restaurant building to provide an accessible bathroom.

These plans are being transmitted for review either: a) prior to public hearings on discretionary permits before the Fairfax Design Review Board and Planning Commission; or, for review prior to issuance of a building permit. Please provide your comments on the completeness and adequacy of the submittal for your agencies reviewing purposes within 10 days.

1	12/3/13	Plan pages ESP, SP, A1 and A2 by Stewart Summers, Architect
		Septic _____ Water _____ Other _____
		SEPTIC: Fiche / Doc (scanned) / Paper file See Database <u>NO RECORD</u>
		WATER: Irrigation / Domestic / Public <u>NO RECORD</u>
		Drill Permit No. _____ Date _____
		Operating Permit No. _____ Date _____
		DUE DATE <u>12/20/13</u>
		NOTES <u>12/9/13</u> Log IN _____ Log OUT _____

REMARKS Plans must be submitted and reviewed by EHS before issuance of a building permit
Once approved by EHS, permit may be issued. Prilla (an) Lew, PEHS 12-10-13
 Please respond by December 20, 2013. Thanks

If you have any questions please contact: Linda Neal, Principal Planner

