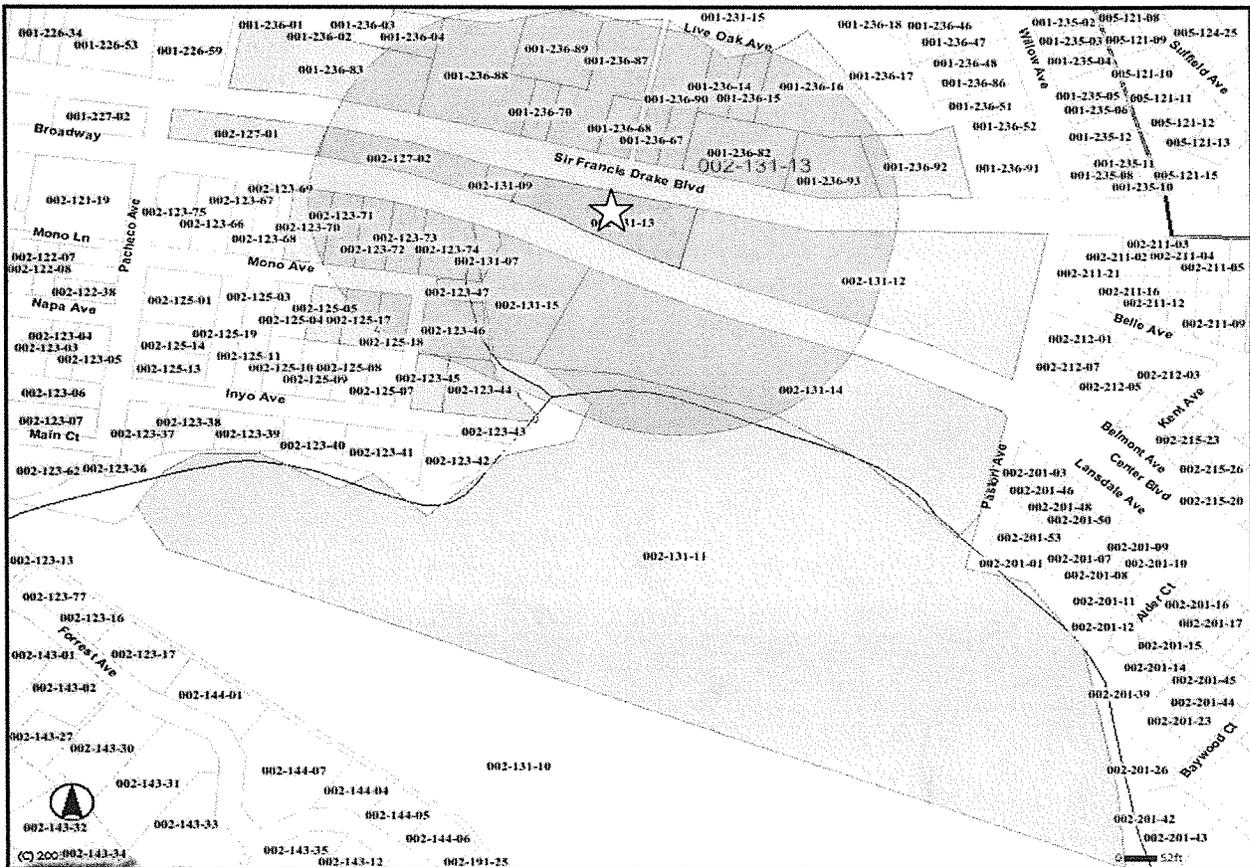


**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** March 20, 2014  
**FROM:** Jim Moore, Director of Planning and Building Services  
 Linda Neal, Senior Planner  
**LOCATION:** 760 Center Boulevard (Java Hut); Assessor's Parcel No. 002-131-13  
**PROJECT:** Construct of a new commercial building and trellis covered outdoor seating area for patrons  
**ACTION:** Use Permit Modification, Sign Permit and Design Review; Application # 14-06  
**APPLICANT:** Rich Dowd, Architect  
**OWNER:** Business owner, Rick Carson, Property owner, Rich Hall  
**CEQA STATUS:** CEQA categorically exempt, § 15303(c)



**760 CENTER BOULEVARD**

## **BACKGROUND**

This item was continued from the February 20, 2014 meeting where the Commission directed staff to prepare a resolution containing findings and conditions for approving the proposed project.

## **DISCUSSION**

The proposed project encompasses demolishing the 200 square foot, Java Hut structure and weather enclosure, to construct a 320 square foot building with 4 drive-up service windows, bathrooms/water service and a large 350 square foot trellis and landscaping over and around an outdoor seating area with built in benches and counters.

### **Categorically Exempt**

The staff has determined that the project is categorically exempt from the California Environmental Quality Act review as codified at Public Resources Code §§ 21,000 per sections 15302(b), 15303(c) and 15304(b).

### **Site Conditions**

The site has been expanded to include a temporary shade structure over two picnic tables to provide an outdoor seating area primarily for the benefit of the business. A second drive-thru window is being operated serving vehicles traveling west through the parking lot although that was not part of the original approval and the circulation pattern through the parking lot was never reviewed and approved as a Use Permit modification by the Town.

### **Use Permit**

Drive-thru businesses are not listed as a permitted use in any of the Commercial Zone Districts and are only listed as Conditional Uses in the Central Commercial CC Zone District [Town Code § 17.100.050(B)]. The original use permit was granted after the Commission approved the re-use of the existing Photomat kiosk with a temporary coffee cart as being equivalent to other listed uses in the Highway Commercial Zone which cater to automobile traffic which is listed as one of the purposes of the Zone [Town Code § 17.096.010(B)].

The proposed project encompasses demolishing the 200 square foot existing structure and weather enclosure, to construct a 320 square foot building with bathrooms and running water and a large 350 square foot trellis and landscaping over and around an outdoor seating area with built in benches and counters. This is a significant modification of the approved use for a temporary coffee cart and walk-up window area and requires a modification of the original Use Permit.

**General provisions.** As provided in the Town Code's chapter on conditional use permits, "in consideration of an application for a conditional use, the Planning Commission [or the Town Council, as the case may be] shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and general welfare."

### **The February Meeting**

At the February 20, 2014 meeting some Commissioners had reservations about the internal circulation patterns between cars, pedestrians and bicyclists visiting the building and exiting and entering the site. The applicants have studied these patterns since the meeting and now propose a signage/paving marking plan which is depicted in the attached 3/10/14 version of the site plan by RD Architecture, page A1.02. David Parisi, the Town Traffic Engineer, has reviewed the plan and his comments are attached in Exhibit A. . He recommends that the signs that are posted be as shown in his e-mail and that the applicant/property owner be responsible for delineating the westbound bike lane at the driveway entrances near the new building with green "sharrow" markings. His recommendations have been included as conditions in the attached Resolution No. 14-03.

The Traffic Engineer's suggestion that the applicant be required to pay a portion of the costs of replacing the signage for the pedestrian cross walk on Center Boulevard has not been included as a condition because this is an existing crosswalk the Town is already in the process of improving.

***For further information on the project and a complete discussion of the planning entitlements please see the attached February 20, 2014 staff report and attachments (Exhibit C).***

### **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing and take action adopting Resolution No. 14-03 approving the project at 760 Center Boulevard.

### **ATTACHMENTS**

- Resolution No. 14-03
- Exhibit A – Revised site plan including proposed parking lot signage program
- Exhibit B – Town Traffic Engineer's e-mail dated 3/11/14
- Exhibit C – February 20, 2014 staff report and attachments

## RESOLUTION 14-03

### A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 14-06 FOR DEVELOPMENT OF 760 CENTER BOULEVARD (APN # 002-131-13) WITH A PERMANENT DRIVE-THROUGH COFFEE SHOP AND TRELIS COVER OVER AN OUTDOOR SEATING AREA

**WHEREAS**, on July 11, 2013, Richard Dowd (“Applicant”) submitted an application for a use permit, design review and a sign permit, to the Town of Fairfax for the proposed use of 760 Center Boulevard (the “Site”) for a permanent commercial drive-through coffee shop and outdoor seating area (the “Project”);

**WHEREAS**, on February 20, 2014, the Town of Fairfax Planning Commission held a duly-noticed public hearing to consider approval of Applicant’s requested use permit (design review, and sign permit; and

**WHEREAS**, at the February 20, 2014, public hearing, the Planning Commission considered a staff report and its exhibits, and heard from the Applicant and the Business Owner, interested members of the public, and staff, and after so doing, indicated their general support of the project and directed staff to prepare a resolution for them to take action on at their March 20, 2014 meeting; and

**WHEREAS**, as set forth in the staff reports prepared for the Town Council, the Site bears a General Plan land use designation of ‘Central Commercial’ (per Figure LU-1 of the Fairfax 2010-2030 General Plan), and a zoning designation of ‘Highway Commercial because the amendment to the Town Zoning Ordinance (found at Title 17 of the Town Code of Fairfax), adopted March 5, 2013, has yet to take effect to conform to the newly-adopted General Plan; and

**WHEREAS**, drive-through coffee/food establishments with outdoor seating can be determined to be conditionally permitted uses within the ‘Commercial Highway’ zoning district, per Town Code § 17.096.050(10). In order to approve any conditional use permit, the approving body must be able to find that the proposed development satisfies four criteria set forth in Town Code § 17.032.060; and

**WHEREAS**, at the conclusion of the March 20, 2014, public hearing, the Planning Commission found that:

1. the findings required by § 17.032.060 of the Town Code to approve a use permit for a permanent drive-through coffee kiosk at this location can be made, given the details of the proposed Project;

2. the proposed Project conforms to applicable portions of the General Plan; and
3. the proposed Project will bring the business which has existed in this location since 1994 and contributes to the small town atmosphere of Fairfax, into compliance with health code regulations for serving food and drink while also providing on-site bathroom facilities for patrons; and

**NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED** by the Planning Commission of the Town of Fairfax:

**Section 1.** Town Code § 17.032.060 sets forth the four findings that must be made in order to grant a requested use permit. The Commission finds that the findings for the proposed use can be made as follows:

1. Replacement of the existing temporary kiosk that has no water service with a permanent building that meets health code regulations for having running water and on-site bathrooms does not constitute a grant of special privilege.
2. The business will continue to operate using its current business plan and will implement parking lot improvements to ensure safe pedestrian, vehicular and pedestrian interactions around the building, within the lot and entering and exiting the site. 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. Approval of the use permit, which includes bicycle parking and outdoor seating for bicycling, driving and pedestrian patrons to consume beverages on site safely, is not contrary to the General Plan or the goals or standards set forth in the Zoning Ordinance for sites in the Highway Commercial Zone which Town Code § 17.096.010(B) indicates shall be designed to cater to automobile traffic.
4. Approval of the use permit will result in a better development of the premises by allowing permanent improvements for this business that has operated since 1994 from the site. The installation of water service and on site bathrooms will eliminate the need for patrons and employees to run across the street for water and to use restroom facilities. Therefore, the proposed use improvements are for the protection or enhancement of the general health, safety or welfare of the community.

5. The proposed building and associated trellis structure creates a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.
6. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.
7. Sufficient variety exists in the design of the structures and landscaping to avoid monotony in the external appearance of the project.
8. The parking lot striping and proposed signage shown on the March 10, 2014 revision of the site plan will facilitate the accessibility of off-street parking areas and improve the circulation within the existing parking lot and when entering and exiting the site (Exhibit A).
9. The Sign Ordinance regulations are tailored to businesses in the Town Center area where building facades are continuous and located directly on the street. The Java Hut building is located midway between Center and Sir Francis Drake Boulevard and therefore, a third sign is the minimum necessary to alert passersby traveling east and west on both roadways

**Section 2.** The Commission likewise determined that it can approve the proposed Project because of its conformance to the General Plan as follows:

1. The permanent building complies with General Plan Land Use Goal LU-7 by enabling this business that has operated from this location for going on twenty years to continue to operate, preserving the community and neighborhood character of this section of Center Boulevard.
2. The design of the new building and trellis will minimize the buildings visual mass in conformance with General Plan Land Use Policy LU-1.2.3.
3. The provision of nearby bicycle racks meets the intent of General Plan Circulation Goal C-5 by adding to the circulation network bicycle improvements and by doing so will encourage more bicyclists to patronize the business rather than vehicles.
4. Building signage shall include notices for vehicle traveling both directions to turn off their engines while waiting to minimize air quality impacts in conformance with General Plan Conservation Policy CON-2.1.2.

**Section 3. WHEREAS,** the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. This approval is limited to the development illustrated on the plans prepared by Rich Dowd, RD Architecture, pages A1.00, A1.01 through A1.03, A2.01, A5.01 (with the lower, corrugated, metal siding being replaced with skip planed reclaimed old patina Douglas fir) and A5.02 dated 7/10/13 and landscaping plans by Roth LaMotte Landscaping, page L1.0 dated 6/29/12

2. Prior to issuance of a building permit the applicant or his assigns shall:

- i. 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.)
- ii. 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).
- iii. 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. Upon approval of the contract costs, the applicant shall submit evidence of a bond, letter of credit or some other form of surety approved by the Town equaling 100% of the estimated construction costs.
- iv. The applicant shall submit a cash deposit, bond, letter of credit or other approved surety 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 issuance of the Certificate of Occupancy and/or final inspection of the landscaping.
- v. Plans and calculations of the foundation shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Plan Check firm.
- vi. 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.

3. During the construction process the following shall be required:

- i. The Building Official shall inspect the concrete forms whose location shall also be verified in the field by a surveyor who will provide the Town with a letter that certified the building is located as shown on the approved plans.

- ii. 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.
  - iii. 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.
4. Prior to issuance of an occupancy permit the Department of Planning and Building Services, Marin County Health Department, Ross Valley Fire Department, Marin Municipal Water District and Ross Valley Sanitary District shall field check the completed project and submit written certification to the Town Staff that the project has been installed in compliance with agency specifications and the approved project plans.
5. The roadways and parking lot shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
6. 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".
7. 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 this application by the Planning Commission. Any construction based on job plans that have been altered without the benefit of an approved modification will result in the job being immediately stopped and red tagged.
8. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.
9. 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.

10. Heavy construction truck trips should be restricted to non-peak traffic hours (10:00 AM through 3:00 PM).

11. Garbage from the site shall continue to be disposed of across Center Boulevard on the Fair Anselm Shopping Center property designated as 711 Center Boulevard.

12. 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.

13. 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.

14. Any changes made to the exterior of the building, not shown on the plans listed in condition 1 above, including but not limited to new lighting, new signs, planters, etc, must comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission when required.

15. If the applicant plans to operate from a temporary structure during construction of the permanent building the Building Official, Town Traffic Engineer, Ross Valley Fire Department and Fairfax Police Department must review the proposed location and a temporary circulation plan prior to issuance of the building permit for the project.

16. The parking lot, entrance, exit and bike lane signage, street markings, and striping shall be subject to a final review and approval by the Town Traffic Engineer and shall be installed prior to the project final inspection.

**Section 4.** Based on the foregoing, the Planning Commission does approve Application No. 14-03 in its entirety.

The foregoing Resolution was adopted at a regular meeting of the Planning Commission of the Town of Fairfax held in said Town on the 20th day of March, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Brannon Ketcham, Chair

Attest: \_\_\_\_\_

Jim Moore, Director of Planning and Building Services

\_\_\_\_\_  
Date

## Linda Neal

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**From:** David Parisi [david@parisi-associates.com]  
**Sent:** Tuesday, March 11, 2014 4:34 PM  
**To:** Linda Neal  
**Cc:** Jim Moore; Garrett Toy  
**Subject:** RE: Java Hut\_A 1 02 P Enlarged Site RD

Linda,

The modified Java Hut will result in increased numbers of vehicles crossing the driveways – both inbound and outbound – which will result in increased possibilities of conflict with bicyclists. The signs will help alert outbound motorists, but not inbound motorists. If possible, although it would be on Town right-of-way, I'd like to see the westbound bike lane designated as green just before and through the intersections. The signs for outbound drivers should look like this, rather than what is shown on the plans:



Also, the modified Java Hut will increase pedestrian traffic across Center Boulevard. It would seem appropriate to request a contribution from Java Hut to help upgrade the two uncontrolled crosswalks for the planned Rectangular Rapid Flashing Beacons. I am cc'ing Garrett since he is tracking this project.

Does this help?

Thanks,

David

-----Original Message-----

**From:** Linda Neal [mailto:lneal@townoffairfax.org]  
**Sent:** Tuesday, March 11, 2014 1:58 PM  
**To:** David Parisi  
**Cc:** Jim Moore  
**Subject:** FW: Java Hut\_A 1 02 P Enlarged Site RD

Hi David,

The applicant's for the Java Hut have proposed the attached parking lot circulation/signage plan. Can you take a look at it and comment on its adequacy? We are trying to write the staff report for this item by Thursday morning. I know that

is a short turn around for you so if you can't get to it by then, we will provide the Commission with your comments next week at the meeting.

Thanks  
Linda

-----Original Message-----

From: Rich Dowd [mailto:richdowd@comcast.net]

Sent: Tuesday, March 11, 2014 1:46 PM

To: Linda Neal

Subject: Java Hut\_A 1 02 P Enlarged Site RD

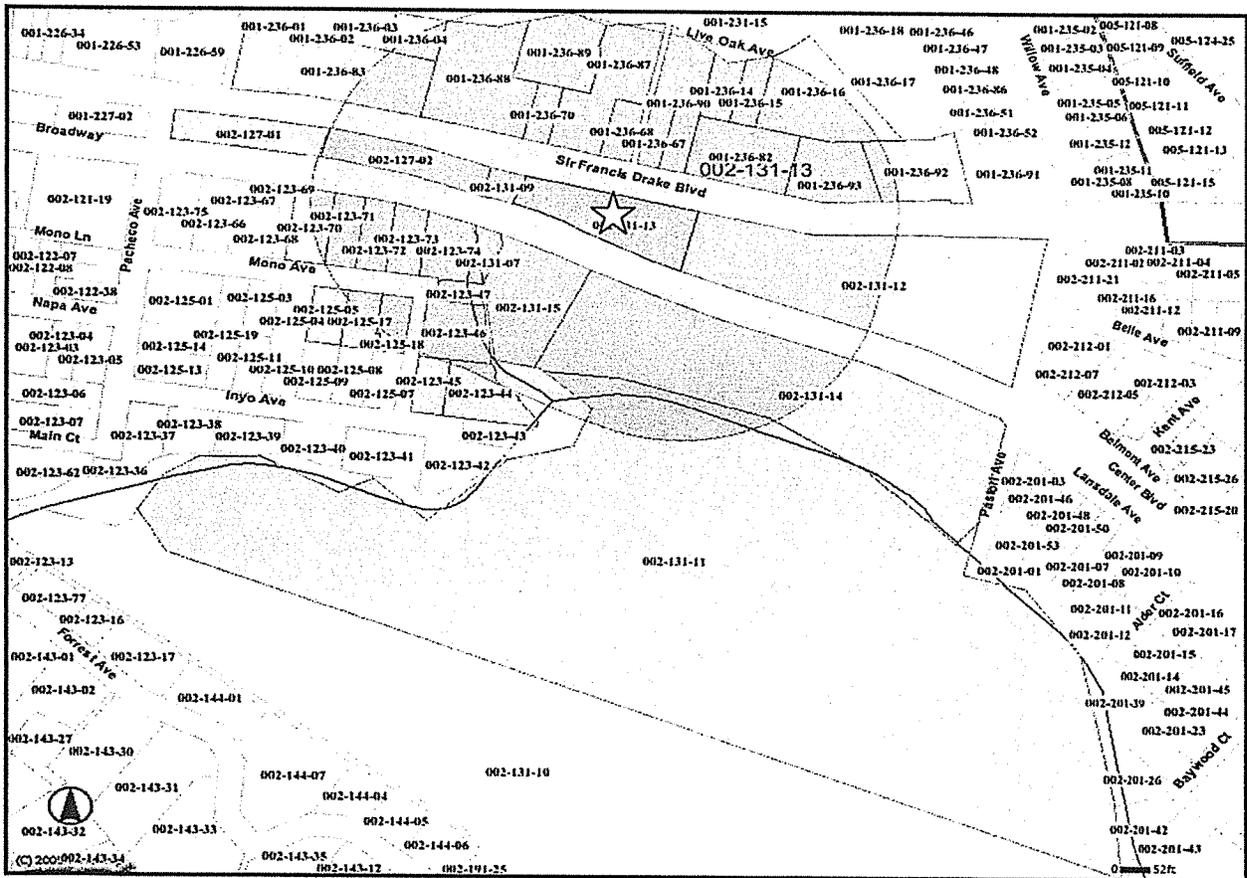
See attached.

rd

# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** February 20, 2014  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION:** 760 Center Boulevard; Assessor's Parcel No. 002-131-13  
**PROJECT:** Construct of a new commercial building and trellis covered outdoor seating area for patrons  
**ACTION:** Use Permit Modification, Sign Permit and Design Review; Application # 14-06  
**APPLICANT:** Rich Dowd, Architect  
**OWNER:** Business owner, Rick Carson, Property owner, Rich Hall  
**CEQA STATUS:** CEQA categorically exempt, § 15303(c)



### 760 CENTER BOULEVARD

## **BACKGROUND**

The 114,229 square foot site is mostly level and is currently developed with the Good Earth Organic Foods market and the Java Hut drive-thru coffee cart and weather screen which is located adjacent to and utilizes a permanent structure that was originally built as a drive-thru Photomat Kiosk. The record is unclear as to when the Photomat Kiosk was approved and built.

The business operator has also placed picnic tables adjacent to the business that is currently utilized as informal seating for the drive-thru customers and/or pedestrians and bicyclist.

A use permit and a Design Review Permit for a movable coffee cart with signage to operate next to and utilize the vacant Photomat kiosk was approved in 1994. At the time of the original approval one of the conditions of approval was that the cart was to be removed from the site and stored in the Fair Anselm Plaza buildings across the site at night.

In 1996 planning and building permits were granted for a more substantial enclosure with new signage around the coffee cart to protect employees from inclement weather because wind and rain were blowing right underneath the Photomat Kiosk awning. At that time the owners were also supposed to place two planters adjacent to the business to create a safe zone for pedestrians accessing the cart enclosure to obtain coffee (see **Exhibit A** – approved plans). The existing shade structure and outdoor seating (e.g., picnic tables) were not approved as part of the current use permit.

## **DISCUSSION**

The proposed project encompasses demolishing the 200 square foot existing structure and weather enclosure, to construct a 320 square foot building with 4 drive-up service windows, bathrooms/water service and a large 350 square foot trellis and landscaping over and around an outdoor seating area with built in benches and counters.

### **Categorically Exempt**

The staff has determined that the project is categorically exempt from the California Environmental Quality Act review as codified at Public Resources Code §§ 21,000 per sections 15302(b), 15303(c) and 15304(b).

### **Site Conditions**

The site has been expanded to include a temporary shade structure over two picnic tables to provide an outdoor seating area primarily for the benefit of the business. A second drive-thru window is being operated serving vehicles traveling west through the parking lot although that was not part of the original approval and the circulation pattern through the parking lot was never reviewed and approved as a Use Permit modification by the Town.

## **Setbacks**

There are no setback requirements for structures in the Highway Commercial (CH) Zone District where the site is located unless the site shares a property line with a residential zone [Town Code § 17.096.100(A) and (B)]. The residential area to the north is located across Sir Francis Drake Boulevard, the apartment to the west is zoned CH, the property across Center is Zoned CH and the residentially zoned property to the east is across Pastori Avenue on the other side of Good Earth. Therefore, there are no required setbacks for this project.

## **Traffic Permit**

The Town Traffic Engineer has determined that the proposed changes to the building and business operation will not generate an additional 100 average daily trips that are necessary to result in the project requiring a Traffic Impact Permit. The applicants have provided him with information that has led Parisi Associates, the Town Engineer, to determine that most of the traffic for this particular business is pass-by traffic (traffic already using surface street to get somewhere else) not destination traffic (traffic driving to the site just to obtain coffee or food) that might result in a significant increase in traffic (see **Exhibit B** – Town Engineer report dated 1/24/14 and Project Engineer’s report dated 11/22/13 with supporting documentation).

## **Circulation**

The Town Engineer does mention that while not generating an amount of threshold traffic to require a Traffic Study and Permit the proposal, by adding two additional drive-up service windows and an expanded outdoor seating area, will increase the number of vehicles crossing one or more of the driveways to and from the site. The increase in the number of cars entering and exiting to and from the site could result in an increased potential for collisions at and near the driveways – particularly for the west bound bicycle lane located on the north side of Center Boulevard where a car/bike collision recently occurred (per Parisi)

Therefore, staff has included, as a recommended condition of approval should the project be approved, the following conditions:

1. Prior to issuance of the building permit the applicant shall work with the Town Traffic Engineer to develop and install, if deemed necessary by the Town Traffic Engineer, an on-site and/or offsite signage program alerting drivers entering and existing the site to the existence of the west bound bicycle lane. The signage can include pavement signs, free standing signs, and/or other measures.
2. If any public projects or plans are approved in the future for this area of Center Boulevard, the applicant shall pay their fare share of any bicycle safety measures that are implemented.

## **Parking**

The Town Code only requires 3 parking spaces be provided for the proposed project. The site currently has 213 parking spaces in the western lot which accommodates both the requirements of this proposal and the existing Good Earth Market.

## **Required Discretionary Permits**

The project requires the following discretionary permits:

A Use Permit modification – to replace the permanent Photomat building and the temporary weather shelter

## **Use Permit**

Drive-thru businesses are not listed as a permitted use in any of the Commercial Zone Districts and are only listed as Conditional Uses in the Central Commercial CC Zone District [Town Code § 17.100.050(B)]. The original use permit was granted after the Commission approved the re-use of the existing Photomat kiosk with a temporary coffee cart as being equivalent to other listed uses in the Highway Commercial Zone which cater to automobile traffic which is listed as one of the purposes of the Zone [Town Code § 17.096.010(B)].

The proposed project encompasses demolishing the 200 square foot existing structure and weather enclosure, to construct a 320 square foot building with bathrooms and running water and a large 350 square foot trellis and landscaping over and around an outdoor seating area with built in benches and counters. This is a significant modification of the approved use for a temporary coffee cart and walk-up window area and requires a modification of the original Use Permit.

**General provisions.** As provided in the Town Code's chapter on conditional use permits, "in consideration of an application for a conditional use, the Planning Commission [or the Town Council, as the case may be] shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and general welfare."

**Findings needed.** Applicants for any use permit, or modification of an existing Use Permit, in the Town must demonstrate the ability of their proposed use to meet the four factors set out in § 17.032.060 in order to gain approval. Findings must be made to support each conclusion. Each of these factors, as set out in italics, is considered in turn below.

*(A) 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 Commission will need to consider whether the proposed Project will be a grant of special privilege.

The site is zoned CH (Highway Commercial Zone) which is silent on the issue of drive thru. The CH zone is designed to cater to automobile traffic rather than to pedestrian traffic. In contrast the CC zone (Central Commercial Zone) does allow drive-thrus with a use permit, but the CC zone caters to pedestrian traffic. While the Town is undertaking the process of rezoning the CH zones to CC, the Planning Commission needs to consider the request under its existing CH zoning.

The Town previously granted a use permit for a coffee cart with one vehicle service window and one walk-up window. However, the site has in essence been operating with two drive thru windows. Granting a modification for a permanent business with four drive-up windows catering to drive through traffic will be unique to this use. There are no other drive-thru businesses in Town.. The Commission will need to consider all these factors in making this finding.

***(B) 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.***

The Commission will need to consider whether the proposed Project creates the adverse impacts described in this section.

From a technical perspective, the Town's traffic engineer has reviewed the proposed site circulation and has determined that the increased number of vehicles accessing the business and traveling both east and west through the parking lot and into and out of the site could increase the number of negative interactions between cars and pedestrians using the sidewalk and bicycles traveling west in the bicycle lane.

In addition, § 17.052.040(A) of the Town Parking Ordinance states that "parking facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets". (See also Policy C-1.3 of the General Plan's Conservation Element, which directs decision-makers to "promote pedestrian and bicycle circulation to ensure that automobile convenience does not compromise bicycle and pedestrian safety and convenience.")

A carefully designed on-site sign program could address the Town Engineer's concern.

***(C) 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 Commission must decide if construction of a permanent building designed to cater to drive-through patrons and improvement of a larger outdoor seating area is consistent with the overall goals of the 2010 – 2030 Fairfax General Plan. Prior to or at the meeting, staff will identify for the Commission those General Policies that could be applicable to this project

***(D) Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.***

The Commission must decide if this project would better serve the public interest and enhancement of the community. The existing business provides an amenity for residents and generates tax revenue to the Town. The proposed project would replace a temporary structure with a permanent building including a restroom for its customers. The Commission will need to determine if the benefits outweigh the potential impacts to bicycle and pedestrian safety as well as any inconsistencies with General Plan policies.

Please note: Without the approval of this use permit modification the business will be able to continue to operate in the manner they have been operating since the Use Permit was originally approved. However, the applicant should submit an application to the Town to amend their existing use permit to reflect their current operation.

### **GENERAL PLAN AND ZONING**

As a policy document, the Town's General Plan contains its objectives and goals. The zoning ordinance delineates the standards applicable to uses and development within each zoning district. Here, the two documents currently conflict, as the zoning has not yet caught up with the changes anticipated by the General Plan: which calls for the conversion of all parcels within the Commercial Highway (CH) to Central Commercial (CC).

**General plan conformance.** As noted above, all land use decisions must conform to the General Plan. Further, the Conservation Element within the General Plan states that:

- All planning decisions shall require application of existing air quality guidelines and best practices to minimize air quality impact (General Plan Policy CON-2.1.2).

To address this Policy the business could post "please turn off engines while waiting signs" (though it is unlikely that during the winter the signs would be heeded). And while the number of electric vehicles is on the rise, most drivers still use fossil fuels which pollute the air and negatively impact air quality.

The project would allow the business to cater to more vehicles, although the increase in the number of windows would allow the business to serve more vehicles in presumably a shorter amount of time. Construction of the outdoor seating area may increase the number of pedestrians visiting the business but it also may increase the number of persons driving to the site to enjoy coffee outside.

### **Zoning Ordinance Conformance.**

Drive through businesses are not listed as either a permitted or conditional use in the Highway Commercial (CH) Zone where the property is located. The original use permit was granted for a

temporary, movable, coffee cart. The Commission needs to determine if they want to allow the use to continue indefinitely by allowing the construction of a permanent structure with an expanded outdoor seating and counters that expands the site area used by the business by more than 50%.

### **Design Review and Sign Permit**

In order to grant design review approval of a project the Commission must be able to find that the architecture and landscaping for the project meet the criteria set forth in Town Code § 17.020.040.

The building design combines exterior stone veneer siding with rusted corrugated metal siding on lower portions of the structure and plaster reveals on the upper half painted an off white color and wooden trim cap along the building at the roof and the steel channel automobile cue overhang.

The 350 square foot trellis would be a combination of steel and wood.

The proposed design complies with the Town Code design criteria creating a well composed design that will relate harmoniously to other buildings in the vicinity and to the total setting. The architecture is of a quality and character appropriate to the site and will serve to protect the value of private and public property in the immediate area.

The proposed development conforms with the off-street parking requirements set forth in this title.

The design includes sufficient variety to avoid monotony in external appearance.

The size and design of the structure is in proportion to its building site and it has a balance and unity among its external features so as to present a harmonious appearance.

The landscaping plan proposed a mixture of grasses, vines, small trees, ornamental shrubs and perennials and will be irrigated with a drip irrigation system to conserve water.

The applicants are requesting an exception to the Sign Ordinance requirements in order to erect three business identification signs while Town Code § 17.064.050(B) limits the number of business identification sign a business can have to two, and one of the two has to be a projecting sign.

The Sign Ordinance regulations are tailored to businesses in the Town Center area where building facades are continuous and located directly on the street. The Java Hut building is located midway between Center and Sir Francis Drake Boulevard and therefore, a third sign is the minimum necessary to alert passersby traveling east and west on both roadways. The Good Earth was granted a similar exception to have three signs.

## **Other Agency/Department Comments**

### **Ross Valley Fire Department**

1. Fire Code § 903.2 requires an approved automatic fire sprinkler system be installed throughout the facility.
2. Address numbers shall be displayed and shall be a minimum of 6 inches in height and shall be in contrasting colors to the background they are displayed on and visible from both the east and the west.
3. The existing fire lane shall be marked in accordance with Ross Valley Fire Department Standards.

### **Building Department**

Any excavations within the public right-of-way require the issuance of an encroachment permit by the Public Works Manager.

### **Marin County Environmental Health Services (EHS)**

The plans must be submitted to EHS for review and approval prior to issuance of the building permit.

### **Pacific Gas and Electric**

PG & E indicates they can provide service for the new building.

### **Marin Municipal Water District**

1. A High Pressure Water Service application must be submitted along with a copy of the building permit and the appropriate application fees and charges.
2. The structures foundation must be completed within 120 days of the date of the application.
3. All the district's rules and regulations in effect at the time the service is requested
4. Comply with District Code Title 13, Water Conservation, for the building and the landscaping. Plans shall be submitted to confirm compliance.
5. Backflow prevention requirements must be met.

## **Ross Valley Sanitary District**

The project requires issuance of a sewer connection permit. The fee will depend on the number of fixture units in the new building.

### **RECOMMENDATION**

Take action on the project and direct staff to return with a Resolution with findings supporting that action, and including any necessary conditions, at the March 20, 2014 Commission meeting.

### **ATTACHMENTS**

Exhibit A - Applicant's supplemental information

Exhibit B – Town Traffic Engineer's letter dated 1/24/14 and Applicant's Traffic Engineer's report dated 11/22/13

Exhibit C – Other Agency/Department comments

PROJECT DESCRIPTION: REPLACE EXISTING JAVA HUT BUILDING  
WITH A PREFABRICATED MODULAR BUILDING MODIFIED ON SITE  
TO INCLUDE A NEW CANOPY ROOF, TRELLIS SEATING AREA,  
ON SITE BATHROOM, LANDSCAPE AREAS, & BIKE PARKING TO  
UNIFY EXISTING FACILITY FEATURES INTO A

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size	114,229 SF	114,229 SF
Size of structure(s) or commercial space (square feet)	200 SF +/-	320 SF
Height and No. of stories	1 STORY - 12'-9" +/-	1 STORY - 18'-0" MAX
Lot coverage	0.2 %	0.2 %
No. of dwellings units	N.A.	N.A.
Parking <sup>1</sup> No. of spaces		
Size of spaces	STANDARD PARKING	STANDARD PARKING

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

Estimated cost of construction \$ 125,000.<sup>00</sup>

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.

<sup>1</sup>Minimum 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

Signature of Property Owner

[Signature]  
Signature of Applicant

Date

7.10.2013  
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

## FLOOR AREA RATIO (FAR) AND LOT COVERAGE STATISTICS

The following information will be used to verify application FAR and lot coverage amounts.  
Applications will not be considered complete until the following table is complete.

	Existing	Proposed
Footprint square footage for all structures	200 SF +/-	320 SF
Living space square footage		
First floor		
Second floor		
Third floor		
<b>Total</b>	200 SF +/-	320 SF
Accessory structure square footages	N.A. ?	N.A. ?
Sheds		
Pool houses		
Studios/offices		
Second units		
Miscellaneous (specify use)	CANOPY = 70 SF	CANOPY = 160 SF
<b>Total</b>		
Square footage of impervious surfaces		
Walkways		
Patios	TRELLIS = 0 SF	TRELLIS = 350 SF
Impervious decks		
Miscellaneous (specify use)	LANDSCAPE = 85 SF INCLUDING POTS, PLANTINGS	LANDSCAPE = 500 SF +/-
<b>Total</b>		
Garage/carport square footages (specify type)	N.A.	N.A.

\* All square footage measurements must be the sum of all interior floor area measured from the exterior faces of the exterior walls for structures (Town Code § 17.008.020).

**FLOOR AREA:** Fairfax Town Code § 17.008.020, Definitions, defines "floor area" as the sum of all interior floor area measured from the exterior faces of the exterior walls. The "floor area" of any accessory structures on the same lot shall be included. The "floor area" of any garage in excess of 500sf in size for single-family residences and 800sf in size for duplexes shall also be included.

**LOT COVERAGE:** Fairfax Town Code § 17.008.020, Definitions, defines "lot coverage" as the percentage of the lot area that is occupied by the ground area of a building, any accessory building(s), as well as any impervious surface areas such as patios (other than driveways) adjacent to the building or accessory structure.

## SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

### DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

- STEEL & WOOD TRELLIS & CANOPIES
1. Exterior finish: STONE VENEER, PLASTER WAHLS, CORRUGATED METAL
  2. Proposed exterior wall color(s): EARTH TONE BEIGE, RUST, BROWNS
  3. Proposed exterior trim color: BROWN
  4. Proposed exterior window color: RUST (RED, ORANGE, BROWN)
  5. Proposed roof material and color: BUILT UP ROOF OR MEMBRANE - BEIGE / GRAY
  6. Special features: CANOPY OVER WALK-UP SERVICE AREA, TRELLIS WITH TIMBER BENCH SEATING AND LANDSCAPE GROUPS AT BOTH ENDS
  7. Lot Coverage: N. A.
- 
8. Number of existing parking spaces and their sizes: EXISTING PARKING ADEQUATE
- 
9. Number of proposed parking spaces and their sizes: EXISTING PARKING ADEQUATE
- 

### DESIGN REVIEW APPLICABILITY

#### 1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

Additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

#### 2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

#### 3. 50% remodels of additions to residential properties

## 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.

THE PROPOSED IMPROVEMENTS WILL REMOVE A NON DESCRIPT  
FACILITY WITH AN AESTHETICALLY PLEASING BUILDING INCORPORATING  
MATERIALS SIMILAR TO ADJACENT BLDGS (GOOD EARTH), TRELLIS  
AND LANDSCAPE AREAS CREATING A MORE UNIFIED BUILDING.  
THE PROPOSED USE WILL BE CONSISTENT WITH THE  
EXISTING USE - A DRIVE THRU COFFEE SHOP WITH WALK-UP  
SERVICE, PICNIC TABLE SEATING AND LANDSCAPING AROUND  
BUILDING.

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.

THE PROPOSED USE IS CONSISTENT WITH CURRENT USE  
NO CHANGES TO TRAFFIC PATTERNS ANTICIPATED.

- 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.

THE PROPOSED IMPROVEMENTS SHALL ENHANCE THE  
PROPERTY AESTHETICALLY AND FUNCTIONALLY

- 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.

APPROVAL OF USE PERMIT IS CONSISTENT WITH  
THE EXISTING CURRENT USE.

January 24, 2104

Linda Neal, Senior Planner  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

**Subject: Review of Initial Trip Generation Assessment for Java Hut Reconstruction**

Dear Ms. Neal:

Pursuant to your request, Parisi Transportation Consulting has reviewed the "Revised Trip Generation Assessment for the Java Hut Reconstruction" dated November 22, 2013 and related customer travel data that was submitted to us on January 7, 2014. These items are attached to this letter.

The assessment concludes that the proposed new coffee kiosk and related amenities are unlikely to generate a considerable amount of additional "primary trip" traffic since the proposed project would attract customers similar to how they travel to the existing site:

- 64% of customers drive by along Center Boulevard anyway (passby trips);
- 20% of customers drive along a nearby street before assessing the site (diverted trips);
- 8% of customers drive to and/or from the site only to access the site and for no other purposes (primary trips); and
- 8% of customers walk to the site (non-motorized trip).

Based on the project scope and the assessment, we concur that the project would unlikely generate more than 100 new primary vehicle trips; thereby a traffic impact study is not required according to Town code (Chapter 17.056).

It should be noted that while the project would not be expected to generate a substantial amount of new primary vehicle trips, almost all vehicle trips to and from the site (including primary, diverted, and passby trips) would cross one or more driveways located on the north side of Center Boulevard, as well as the westbound bicycle lane. This would result in increased potential for collisions between motor vehicles and bicyclists. There have been recent auto/bicycle collisions at and near the driveways. Consideration should be given to enhancing the visibility of the bicycle lanes with green bike lane treatments, additional signage and potential on-street parking revisions.

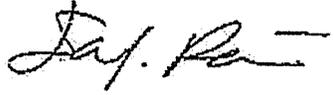
1750 Bridgeway, Suite B208; Sausalito, CA 94965

[www.parisi-associates.com](http://www.parisi-associates.com)

**EXHIBIT #**     B

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Parisi". The signature is fluid and cursive, with a horizontal line extending from the end.

David Parisi, PE, TE  
Principal

November 22, 2013

Mr. Richard Dowd  
**RD Architecture**  
27 Creek Road  
Fairfax, CA 94930

**RE: REVISED TRIP GENERATION ASSESSMENT FOR THE JAVA HUT  
RECONSTRUCTION, FAIRFAX, CA.**

Dear Mr. Dowd:

This letter updates our June 19, 2013 assessment of the Java Hut Coffee Kiosk Reconstruction in Fairfax. As we understand, your client intends to upgrade the existing coffee kiosk located north of Center Blvd near the new Good Earth Market. Planned improvements will increase the efficiency of the existing use and provide customer amenities, including rest rooms and upgraded landscaping, and are required to satisfy current code requirements. However, while the new kiosk will physically be larger, the number of customers drawn to the site is not expected to be appreciably greater than that occurring today.

In response to comments on our initial report, your client provided additional information regarding the existing Java Hut operation. Specifically, he talked to customers on a typical morning to identify the share of customers that simply stopped by Java Hut as part of a trip already being made on Center Blvd. He determined that these "pass-by trips" comprised 69% of the customers. Assuming that this rate continues after the expansion, then only 31% of any additional trips would be "new". The ramifications of this information are presented later in this report.

**Background Information / Issues**

The Town of Fairfax has specific guidelines for determining the need for comprehensive analysis of the traffic impacts associated with any new development that creates a structure or adds additional square footage to an existing structure. Any project adding more than 100 "new" daily trips to the town's street system is required to prepare a traffic study that addresses its impacts and identifies applicable mitigation. Projects generating fewer than 100 new daily trips are exempt from further study requirements. Thus, the intention of an initial analysis is not necessarily to estimate an exact trip generation increase but rather to determine whether an increase of more than 100 daily trips is likely.

As we have discussed, traffic engineers typically forecast trip generation for new development based on interpolation of traffic count information acquired at similar sites. That data often indicates that trip generation is somehow related to the physical size of the development. If this were the case, a larger kiosk would be assumed to generate proportionately more traffic.

We have reviewed standard publications to determine whether data is available for coffee kiosks. The Institute of Transportation Engineers (ITE) publication, *Trip Generation, 9<sup>th</sup> Edition* is commonly accepted by Caltrans and the Town of Fairfax, but that reference does not include information for standalone coffee kiosks. A web search was also conducted but did not yield relevant data for this type of use.

### Approach to Assess Trip Generation

Because published information is not available, our approach to addressing this issue was to identify daily trip generation for several coffee kiosks and determine what parameters are projectors of trip generation. Because factors such as the location, community makeup and background traffic volume at the Fairfax site are not going to change, the Java Hut Reconstruction project would only generate appreciable additional traffic if the number of trips generated by a coffee kiosk is closely related to the size of the kiosk building or number of service windows or if the amenities offered at the site were appreciably changed.

**Sample Data.** To assist in addressing this issue your client assembled information regarding sales activity for the existing Java Hut and for two other stand-alone coffee kiosks in other communities. Operational parameters, such as the size of the kiosk were identified. Because some evidence exists suggesting that the trip generation for other convenience oriented uses is related to the traffic volume on nearby streets (i.e., ITE code 945 Gasoline/Service Station) the volume of traffic on adjacent and adjoining streets was reviewed in order to determine whether these factors are projectors of trip generation.

Table 1 contrasts the relevant data for each site, as well as respective trip generation rates based on building square footage, on ADT on adjacent street and on ADT on adjacent + adjoining street. The reported daily sales were provided by your client, including multiple reports for the Fairfax site. To equate sales to daily trips, each sale was assumed to create two trip ends, and the resulting total was discounted for modal choice in the downtown Fairfax area. Employee travel and deliveries to the business were assumed to be 5% of the customer traffic. Traffic volume information for streets near each site was obtained from local sources in each community.

KDA

**TABLE 1  
 COFFEE KIOSK CHARACTERISTICS**

Parameter	Site		
	Java Hut	Java Hut	Cable Car
Store	Java Hut	Java Hut	Cable Car
Location	Fairfax	Petaluma	Mill Valley
Type of Location	Downtown core on secondary commuter route	Outlying commercial area on primary commuter route	Highway commercial area near US 101 off ramp
Total Building Square Footage	192	200	216
Restroom	NO	90	54
Drive up windows	2	2	2
Runners During Peak Periods?	YES	YES	YES
Outdoor Seating?	12 seats**	NO	16 seats
Daily Sales – Weekday	412 (3 day average)	222	485
Less Non-Automotive Sales	10%	<1%	<1%
Plus Employee travel, etc.	5%	5%	5%
Estimated Daily Trips	778	462	1,008
Trips per sf	4.05	2.31	4.67
Immediately Adjacent Street	Center Blvd	East Washington St	Redwood Hwy Frontage Road
Daily Weekday Traffic Volume	10,000	19,000	6,100
Trips per 1,000 ADT	77.80	2.21	144.00
Adjoining Road	Sir Francis Drake Blvd	None	Southbound US 101
Daily Weekday Traffic volume	20,000	0*	64,000
Daily Volume – Adjacent plus Adjoining	30,000	19,000	70,100
Trips per adjacent +adjoining ADT	25.93	24.32	14.20

(\*) no adjoining street parallel to East Washington Street (\*\*) two informal picnic benches

**Results.** Individually, the trip generation rates created from these parameters are not particularly meaningful as wide variations occurred. The daily rates on a “per sf” varied greatly between the three sites, and the rate “per 1,000” ADT on adjacent streets suggested that trip generation was inversely proportional to the volume of traffic on the street near site, which is counterintuitive. The most reasonable individual rate was achieved by comparing trip generation to the sum of traffic and the traffic on adjoining parallel routes.

KDA

This data was subject to multiple regression analysis to determine which factors most closely projected daily trip generation. That analysis yielded a fitted curve equation:

$$T = ( 0 \times \text{SqFt} ) + ( -0.03188 \times \text{Vol} ) + ( 0.02641 \times \text{Adj} ) + 1,057.18$$

where:

T = daily trips generated

SqFt = building square feet

Vol = ADT volume on adjacent road

Adj = ADT volumes on adjacent road plus adjoining road

**Conclusions.** While the data sample does not provide a clear indication of trip generation rates for coffee kiosks, because the three comparative sites are all about the same size but are reported to generate widely differing daily sales, it can be concluded that the size of the facility itself is not a primary factor in its trip generation. It appears that the volume of traffic on streets near the kiosk is a better indicator.

### Other Factors

While statistical analysis of available data suggests that the size of the kiosk is not a primary factor it is important to consider practical reasons why this might be the case and why a larger coffee kiosk in Fairfax is unlikely to generate a considerable amount of additional traffic.

These factors include:

1. The number of service areas available to the public will not change, and customer service now occurring outside the building by approaching the queue will now occur at kiosk windows;
2. An appreciable portion of the new building will be used for storage that will supplement off-site storage that already generates traffic;
3. The work areas within the current building are very small and inefficient, while the new facility will provide additional space for on-site activities; and,
4. An appreciable portion of the new building will be a new ADA accessible restroom.

### Pass-by Trips

Convenience oriented retail uses often attract customers that simply stop as they pass the site as part of another trip. Because they don't increase the volume of traffic on the adjoining street, these "pass-by" trips are excluded from estimates of "new" trips being generated.

To provide perspective, the owner surveyed his morning customers on Thursday November 21, 2013. He asked each customer to classify himself into one of three groups. The first group is the drivers actually going somewhere else that drive by the Java Hut site on Center Blvd anyway.

KDA

They just turn into the driveway and turn back onto Center Blvd when they leave. These are "Pass-by" trips. The second set is making a specific trip to Java Hut. They start somewhere and go back there. It doesn't matter which streets they use. These are "Primary / New" trips. The third set is comprised of people who stop at Java Hut on their way to a different destination (like #1) but would not be on Center Blvd if they did not stop at Java Hut. This would most likely be people who were driving on Sir Francis Drake Blvd (SFD) and turned onto Center Blvd to get to Java Hut but went back to SFD. These are "Diverted" trips. For the purpose of our analysis, they would be considered "new" trips on Center Blvd.

Your client tabulated his results and identified 105 visits by the "pass-by" group, 13 primary / new visits and 34 diverted customers. Thus 69% (105/152) of the customers would be classified as "pass-by".

Working backwards, it is possible to estimate the total trip generation associated with the Java Hut reconstruction that would result in fewer than the City's maximum of 100 new trips. If only 31% of the additional trips are new, then a total traffic increase of 322 trips would yield 100 new daily trips. ( $100/(1.00-0.69)$ ). As a comparison, the total 322 additional trips would represent 41% of the existing 778 daily trips generated by the Java Hut.

### Overall Conclusions

1. The new kiosk is unlikely to generate a considerable amount of additional traffic simply because the building is larger.
2. As compared to current weekday trip generation, 100 additional "new" trips would represent a 41% increase in the current traffic at the site.
3. While it is possible that any new business that is made more physically attractive may inspire some additional customer visits, it is unlikely that a "fresh look" would result in an increase in sales of more than 41%.
4. The project is unlikely to result in more than 100 new daily trips.

Thank you again for contacting our firm regarding your project. Feel free to contact me if you have any questions.

Sincerely,

KD Anderson & Associates, Inc.



Kenneth D. Anderson, P.E.  
President

# RD Architecture

27 Creek Rd. Fairfax CA 94930 (415) 256-9131

## Java Hut - Customer Survey

760 Center Boulevard, Fairfax CA 94930

### Group A - Pass By Trip Analysis - Thursday November 21, 7:00 AM - 9:00 AM

1. Pass-By Trips: (Traffic already using Center Boulevard and Enter Java Hut as an Intermediate step on the way from another destination):

"Good Morning. We are conducting a survey of how our customers typically get to Java Hut in the morning.

Did you arrive from Center Boulevard or Sir Francis Drake Boulevard?

Was this a specific trip for your coffee or are you on your way to another destination?

Thank you, may I take your order.

✓	✓	✓	✓	✓	✓	✓	✓	✓	10
✓	✓	✓	✓	✓	✓	✓	✓	✓	20
✓	✓	✓	✓	✓	✓	✓	✓	✓	30
✓	✓	✓	✓	✓	✓	✓	✓	✓	40
✓	✓	✓	✓	✓	✓	✓	✓	✓	50
✓	✓	✓	✓	✓	✓	✓	✓	✓	60
✓	✓	✓	✓	✓	✓	✓	✓	✓	70
✓	✓	✓	✓	✓	✓	✓	✓	✓	80
✓	✓	✓	✓	✓	✓	✓	✓	✓	90
✓	✓	✓	✓	✓	✓	✓	✓	✓	100

\* 106 105

*Pat Dowd*

RDA



# RD Architecture

27 Creek Rd. Fairfax CA 94930 (415) 256-9131

## Java Hut – Customer Survey

760 Center Boulevard, Fairfax CA 94930

### Group C – Diverted Trip Analysis – Thursday November 21, 7:00 AM – 9:00 AM

- Diverted Trips:** (Customers are already on their way to a different destination and arrived by turning on to Center Boulevard from Sir Francis Drake Boulevard and would continue back on either Center Boulevard or back on Sir Francis Drake Boulevard).

“Good Morning. We are conducting a survey of how our customers typically get to Java Hut in the morning.

Did you arrive from Center Boulevard or Sir Francis Drake Boulevard?

Was this a specific trip for your coffee or are you on your way to another destination?

Thank you, may I take your order”.

X	✓	✓	✓	✓	X	✓	✓	✓	✓
✓	X	X	✓	X	✓	✓	✓	✓	✓
✓	✓	✓	✓	✓	X	✓	✓	✓	X
✓	✓	✓	✓	✓	X	✓	✓	✓	X

\* 34

Rita Rand

RDA



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

### FIRE DEPARTMENT PLAN REVIEW

PROJECT: Javahut  
ADDRESS: 760 Sir Francis Drake  
Ross CA

Page: 1 of 2  
Date: 07/26/13  
Reviewed by: Rob Bastianon  
(415) 258-4673

TYPE OF REVIEW: Commercial  
Bldg. Dept. 07/16/13 Fire Dept. # 13-0224  
E-mail: [Rbastianon@rossvalleyfire.org](mailto:Rbastianon@rossvalleyfire.org)  
Review No. 1  
Fire Department Standards can be found at: [www.rossvalleyfire.org](http://www.rossvalleyfire.org)

Applicant\*: FFX Planning  
Address:

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

Occupancy Class: B	Fire Flow Req: 1500 GPM	Sprinklers Required: YES
Type of Construction: V-B	On-site Hyd. Req: NO	Fire Alarm Required: NO
Bldg Area: sf:	Turn-Around Req: NO	Permits Required:
Stories:	Fire Flow Test Required: NO	
Height: +ft.	Wildland Urban Interface: N/A	

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

- APPROVED (no modifications required)
- APPROVED AS NOTED (minor modifications required - review attached comments)
- NEEDS REVISION (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: 7-26-13

Inspections required:

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

EXHIBIT # C



Ross Valley Fire  
Department

777 San Anselmo Ave  
San Anselmo, Ca 94960  
Ph. 415-258-4686

## FIRE DEPARTMENT PLAN REVIEW

PROJECT: Javahut  
ADDRESS: 760 Sir Francis Drake  
Ross CA

Page: 2 of 2  
Date: 07/26/13

Reviewed by: Rob Bastianon  
(415) 258-4673

TYPE OF REVIEW: Commercial

E-mail: [Rbastianon@rossvalleyfire.org](mailto:Rbastianon@rossvalleyfire.org)

Bldg. Dept. 07/16/13

Fire Dept. # 13-0224

Review No. 1

Fire Department Standards can be found at: [www.rossvalleyfire.org](http://www.rossvalleyfire.org)

ITEM #	SHEET	COMMENTS	Corr. Made
1		Fire Code Section 903.2 requires an approved automatic fire sprinkler system be installed throughout the facility. A separate deferred permit is noted on the cover sheet.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
2		Address numbers shall be a minimum of 6 inches. Numbers shall be in contrasting colors and visible from both angles.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
3		The existing fire lane shall be marked in accordance with RVFD Standard #204	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	

*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.*



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

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

14-02  
PV

RECEIVED

RECEIVED JUL 16 2013  
 AUG 01 2013 Environmental Health  
 TOWN OF FAIRFAX

**LETTER OF TRANSMITTAL**

**From: Fairfax Planning and Building Services Department**

**Date: July 12, 2013**

- To:  Town Engineer       Fairfax Police Dept.       Marin County Open Space Dist.  
 Town Attorney       Sanitary Dist. 1       Other - Building Official  
 MMWD       Public Works Dept.      Pacific Gas & Electric  
 Ross Valley Fire       Marin County Health Dept.

Address and Parcel No: 760 Center Boulevard; Assessor's Parcel No. 002-131-13

Project Description: removal of old Photomat Kiosk and temporary shelters for the existing coffee cart, drive-thru establishment and replacement with a 320 square foot portable building with bathrooms, coffee preparation area and outdoor seating.

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	7/10/13	Preliminary development plans by RD Architecture, pages A1.00 to A1.03, A2.01, A5.01 and 5.02, a paving and striping plan and landscaping plan by Roth LaMotte Landscape Architecture, pages L1.0 and landscape and plant materials plan
	7/17/13	Plans are REQUIRED TO BE SUBMITTED TO EHS FOR REVIEW and approval PRIOR TO ANY construction. Applicant to provide FORMAL submittal for review. - Precilla Con Lewis, EHS.

Septic Public Water Public Other PV

**REMARKS**

Please respond by August 5, 2013. Thanks

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

SEPTIC: Fiche / Doc (scanned) / Paper file  
 See Database NO RECORD  
 WATER: Irrigation / Domestic / Public / NO RECORD  
 Drill Permit No. \_\_\_\_\_ Date \_\_\_\_\_  
 Operating Permit No. \_\_\_\_\_ Date \_\_\_\_\_  
 DUE DATE 7/30/13  
 NOTES  
7/16/13 Log IN \_\_\_\_\_ Log OUT \_\_\_\_\_





# MARIN MUNICIPAL WATER DISTRICT

220 Nellen Avenue Corte Madera CA 94925-1169

[www.marinwater.org](http://www.marinwater.org)

July 18, 2013

Linda Neal  
Town of Fairfax Planning Dept  
142 Bolinas Rd  
Fairfax CA 94939

**RE: WATER AVAILABILITY** – Coffee Shop  
Assessor's Parcel No.: 002-131-13  
Location: 760 Center Blvd., Fairfax

Dear Ms. Neal:

The above referenced parcel is not currently being served. This property will be eligible for water service upon request and fulfillment of the requirements listed below.

1. Complete a High Pressure Water Service Application.
2. Submit a copy of the building permit.
3. Pay appropriate fees and charges.
4. Complete the structure's foundation within 120 days of the date of application.
5. Comply with the District's rules and regulations in effect at the time service is requested.
6. Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Plans shall be submitted, and reviewed to confirm compliance. The following are required:

- Verification of indoor fixtures compliance
- Landscape plan
- Irrigation plan
- Grading plan

Any questions regarding District Code Title 13 – Water Conservation should be directed to Water Conservation Department at (415) 945-1497. You can also find information about the District's water conservation requirements online at [www.marinwater.org](http://www.marinwater.org).

7. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

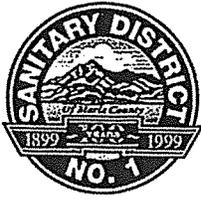
If you have any questions regarding this matter, please contact me at (415) 945-1532.

Sincerely,

Joseph Eischens  
Senior Engineering Technician

JE:mp

cc: Town of Fairfax Building Dept



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

RECEIVED  
JUL 22 2013  
TOWN OF FAIRFAX

July 19, 2013

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

**Re: Design Review for Commercial Business: 760 Center Blvd., Fairfax:  
and Sanitary District No. 1 Requirements for Private Side Sewers/Laterals  
APN: 002-131-13**

Dear Ms. Neal:

We are in receipt of your transmittal letter received July 12, 2013 concerning the above-referenced project. Sanitary District No. 1 requires that a sewer connection permit be issued for new buildings. The fee for this permit will depend on the number of fixture units in the new building, and can be calculated from the enclosed Requirements to Obtain a Sewer Permit information sheet. Additionally, enclosed for your use is another informational sheet regarding the side sewer connection permit and inspection process.

Sanitary District No. 1 will place a hold on said property when the building permit is issued. This hold prevents the new building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain a sewer connection permit from this office and meet all District requirements pertaining to the private side sewer/lateral.

If you have any questions, please contact this office.

Sincerely,

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

Enclosures



**ROSS VALLEY SANITARY DISTRICT**  
 2960 Kerner Blvd  
 San Rafael, CA 94901  
 (415) 259-2949 ~ [rvsd.org](http://rvsd.org)

**REQUIREMENTS TO OBTAIN A SEWER CONNECTION PERMIT**  
when sewer is available

Bring to the District Office: a) Set of approved plans showing plumbing fixtures, and b) Building Permit Number obtained from building department of jurisdiction (town/city/county).

**RESIDENTIAL:**

**New Construction:**

- District Connection Fee: \$ 50\*per fixture unit w/ \$500 minimum
- District Inspection Fee: 1,000
- CMSA Capacity Charge: 5,261.72\*\*fee adjusted each July 1 by an increment based on the change in the Engineering News-Record Construction Cost Index (ENR Index) for San Francisco

**Transfer from septic to public sewer: \$5,761.72\*\***

**Rebuild by pre-tear-down owner within 6 months of tear-down:**

- District Inspection Fee: \$1,000
- District Connection Fee: \$ 50\*per fixture unit. Credit will be given for pre-tear-down fixture units when fixture units are counted by District inspector prior to tear-down or can be otherwise verified. Old side sewer/lateral may be used only if it passes test meeting all current District Specifications. If rebuilt by anyone other than pre-tear-down owner, new construction requirements/ fees apply.

**Rebuild by pre-burn-down owner within 24 months of burn-down:**

No District fees required if residence is rebuilt in kind by pre-burn-down owner within 24 months of burn-down, and rebuild may connect to the existing side sewer/lateral. Sewer lateral must be equipped with a backwater relief device as required by current District Specifications. If rebuild doesn't replace burn-down in kind, tear-down requirements/fees apply. If rebuilt by anyone other than pre-burn-down owner, new construction requirements/fees apply.

**COMMERCIAL - New Construction:**

- District Connection Fee: \$ 50.00\*per fixture unit w/ \$500 minimum
- District Inspection Fee: 1,000.00 plus \$.20 per sq.ft. over 2,000 sq.ft.
- \*\*CMSA Capacity Charge: 328.86 \*per fixture unit w/ \$5,261.72 minimum
- \*\*CMSA Capacity Charge: 769.53 \*per fixture unit w/ \$5,261.72 minimum
- High Strength Users

**SIDE SEWER REPAIR OR REPLACEMENT:**

- First Sewer Inspection Fee: \$98.00
- Each Additional Sewer Inspection: \$75.00

**METHOD OF PAYMENT: Personal/Business check, cashier's check or money order.** If the bank for any reason does not honor payment tendered, the full amount plus a ten percent penalty must be paid by a cashier's check to the District immediately to avoid legal action.

\*Connection fees are calculated by number of plumbing fixture units according to the 1985 Uniform Plumbing Code as follows:

<u>Units</u>	<u>Fixture</u>	<u>Units</u>	<u>Fixture</u>
2	Kitchen sink/dishwasher	2	Sink, bar, commercial
1	Bar Sink, private	3	Sink, commercial/industrial
2	Bathtub or Shower	1	Drinking Fountain
1	Wash basin (lavatory)	6	Water Closet, public
4	Water Closet, private	6	Urinal, pedestal
2	Clothes Washer	2	Urinal, stall or wall
2	Laundry Tub	2	Bidet
3	Service Sinks	3	Floor Drain, grease/oil
2	Floor Drain, standard	6	Floor Drain, sand/auto wash



July 26, 2013

Linda Neal, Senior Planner  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

**Subject: Review of Initial Trip Generation Assessment for Java Hut Reconstruction**

Dear Ms. Neal:

Pursuant to your request, Parisi Transportation Consulting has reviewed the "Initial Trip Generation Assessment for Java Hut Reconstruction", dated June 19, 2013 and received by the Town of Fairfax on July 10, 2013.

The assessment concludes:

1. *The new kiosk is unlikely to generate a considerable amount of additional traffic simply because the building is larger.*
2. *As compared to current weekday trip generation, 100 additional trips would represent a 13% increase in the current traffic at the site.*
3. *While it is possible that any new business that is made more physically attractive may inspire some additional customer visits, it is unlikely that a "fresh look" would result in an increase in sales of more than 13%.*
4. *The project is unlikely to result in more than 100 new daily trips.*

The assessment states that "the project would only generate appreciable additional traffic if the number of trips generated by a coffee kiosk is closely related to the size of the kiosk building or if the amenities offered at the site were appreciably changed."

The assessment later concludes that the size of the facility itself is not a primary factor in its trip generation. It then says a larger kiosk is unlikely to generate more than a 13 percent increase in traffic (which is equivalent to 100 additional daily vehicle trips, triggering a traffic study pursuant to Town requirements) because of the following factors:

1. *The number of service areas available to the public will not change, and customer service now occurring outside the building by approaching the queue will occur at kiosk windows;*

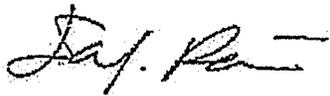
2. *An appreciable portion of the new building will be used for storage that will supplement off-site storage that already generates traffic;*
3. *The work areas within the current building are very small and inefficient, while the new facility will provide additional space for on-site activities; and,*
4. *An appreciable portion of the new building will be a new ADA accessible restroom.*

Based on the project's description and preliminary plans, however, it appears that the amenities at the site would actually change appreciably. The outside seating area would convert from two informal picnic benches to a formal trellis-covered and landscape-surrounded seating area with countertops and an on-site bathroom that will allow lingering. And the drive-through vehicle capacity could double with the expansion from two to four drive-through windows. These factors would lead to an increase in vehicle trip generation, potentially in proportion to the increased seating area and vehicle serving capacity.

It is therefore recommended that the vehicle trip generation assessment be revised to consider the increased vehicle trip generation that would result due to the proposed increase in drive-through windows and service capacity and the proposed increase in outdoor seating area.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Parisi". The signature is fluid and cursive, with a horizontal line extending from the end.

David Parisi, PE, TE  
Principal