

RESOLUTION NO. 43/2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA APPROVING PRECISE PLAN AMENDMENT NO. 14-002 FOR THE DEMOLITION OF THE EXSITNG CLOCK TOWER, THE CONSTRUCTION OF A NEW CLOCK TOWER, THE RELOCATION OF THE ELEPHANT FOUNTAIN AND MODIFICATIONS TO THE FASCADES OF RETAIL UNITS 105 AND 107 AT THE CORTE MADERA TOWN CENTER.

WHEREAS, on March 3, 2014, Precise Plan Amendment was filed; and

WHEREAS, on March 11, 2014, the application was deemed incomplete for submittal of additional project information and plan corrections; and

WHEREAS, on March 26, 2014, the Planning Department determined the application to be complete and recommended that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act Guidelines; and

WHEREAS, on April 8, 2014, public hearing notices were mailed to property owners within 300 feet of the subject property and posted in three public places; and

WHEREAS, on April 22, 2014, the Planning Commission held a pubic hearing and recommended that the applicant modify the application and return to the Commission; and

WHEREAS, on May 13, 2014, the Planning Commission held a pubic hearing and forwarded a recommendation, via Resolution 14-016, to the Town Council denying the Precise Plan Amendment and recommending design revisions; and

WHEREAS, on June 17, 2014, the Town Council remanded the Precise Plan Amendment Application back to the Planning Commission; and;

WHEREAS, on September 30, 2014, revised plans were submitted; and

WHEREAS, on October 29, 2014, the Planning Department determined the revised application to be complete; and

WHEREAS, on November 5, 2014, public hearing notices were mailed to residents within 300 feet of the subject property and posted in three public places; and

WHEREAS, on November 19, 2014, Planning Commission held a pubic hearing and forwarded a recommendation, via Resolution 14-024, to the Town Council approving the Precise Plan Amendment; and

WHEREAS, on December 4, 2014, public hearing notices were mailed to property owners within 300 feet of the subject property and posted in three public places; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Council does hereby **approve** the Precise Plan Amendment Application No. 14-002 for the demolition of the existing clock tower, the construction of a new clock tower and the relocation of the elephant fountain at Corte Madera Town Center, based upon the finding that the proposed Precise Plan Amendment is in substantial conformity with the approved Preliminary Plan for the property and based upon the findings listed below in accordance with Section 18.30.070 of the Municipal Code, and subject to the conditions of approval listed below.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) DETERMINATION

This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to California Code of Regulations, Title 14, Division 6, Chapter 3, (“CEQA Guidelines”), under Section 15301, because said Guidelines provision exempts the minor modifications to existing structures.

DESIGN REVIEW: REQUIRED FINDINGS

The Planning Commission hereby makes the following findings required by Section 18.30.070 of the Corte Madera Municipal Code and based on California State law.

- 1. The project conforms with the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.**

Conformance with the General Plan

The proposed project will advance and comply with the following applicable General Plan policies and programs:

The *General Plan Land Use Diagram* (Figure 2.4) designates the project site as "*Region-Serving Commercial*."

This designation is intended for The Corte Madera Town Center regional shopping center. It includes retail uses capable of attracting patrons from a wide geographic area as well as local-serving retail uses. This designation affords opportunity for mixed uses, including offices and personal services.

The long-standing existing uses within the Corte Madera Town Center comply with the General Plan Land Use Designation of Regional Serving Commercial. The proposed project to demolish the existing clock tower, construct of a new clock tower and relocate the elephant fountain at Corte Madera Town Center will add to the vitality and identity of the shopping center and therefore conforms to the General Plan.

Conformance with the Zoning Ordinance

The proposed project will not change any of the existing uses in the center. It will only change several of the physical elements within the common area. The project is consistent with the permitted uses in the C-2 Regional Shopping District. The design complies with the general development standards of the Preliminary Plan for the initial shopping center development. The Preliminary Plan for Corte Madera Town Center primarily addresses the overall square footage allowance for commercial space, parking and traffic circulation and infrastructure improvements. The proposed Precise Plan Amendment is substantially in conformance with these general criteria found in the Preliminary Plan.

- 2. The project will not unnecessarily remove trees and natural vegetation, will preserve natural landforms and ridgelines, does not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the natural beauty of the Town.**

The project does not involve the removal of any trees. It does include the installation of seasonal plantings integrated with a painted aluminum trellis on the roof adjacent to the new tower. Also the project includes the addition of raised landscape beds around the new fountain.

- 3. The project will not significantly and adversely affect the views, sunlight, or privacy of nearby residences, provides adequate buffering between residential and nonresidential uses, and otherwise is in the best interests of the public health, safety and general welfare.**

The proposed project replaces the existing tower with a similar tower of the same height and approximately 35 feet to the north. The new tower and fountain will not significantly affect the views, sunlight, or privacy of nearby residential uses. The illuminated tower will not be glaring because the clock face is internally illuminated and all other lighting sources will be directed toward the tower or downward. Furthermore, all new lights will be installed with timers and dimmers. The light sources will also be reviewed after their installation to confirm there is no excess external glare. If it is determined that such glare exists, the illumination shall be adjusted to an acceptable level. The visual improvements to the shopping center will presumably improve business activity and the Town's tax base, which promotes the general welfare.

- 4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site and in the vicinity and with the landforms and vegetation in the vicinity of the site.**

The proposed renovations are designed to provide a fresh, new look to the interior pedestrian courtyard at Town Center. The improvements are in scale with the surround

retail buildings and common area features. The new tower will be the same height as the original one and the size and scale of the new foundation and amenities fits into the surroundings. The new location of the tower and the fountain will create better pedestrian access for the northern concourse and more activity of the southern concourse.

5. Development materials and techniques will result in durable high-quality structures.

The proposed design and construction will use high quality and durable construction and fabrication materials.

6. The structures, site plan, and landscaping create an internal sense of order, provide a visually pleasing setting for occupants, visitors, and the general community, are appropriate to the function of the site, and provide safe and convenient access to the property for pedestrians, cyclists and vehicles.

The new tower, roof top trellises, plantings and fountain are generally consistent with the character and scale of the buildings and storefronts within the center and they are visually harmonious with surrounding development. Pedestrian access will be enhanced with the relocation of both the tower and the fountain.

7. To the maximum extent feasible, the project includes the maintenance, rehabilitation, and improvement of existing sites, structures, and landscaping, and will correct any violations of the Zoning Ordinance, Building Code, or other municipal violations that exist on the site.

The proposed project proposal is designed to upgrade the interior pedestrian courtyard at Corte Madera Town Center and the improvements are in scale with the size of this large shopping center. The general design character of the shopping center will be maintained. There are no zoning, building or other municipal violations on the site.

8. The design and location of signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, the signs are visually harmonious with surrounding development and there are no illegal signs on the site.

No signs are part of this project.

CONDITIONS OF APPROVAL

PLANNING DEPARTMENT

The proposed project shall be constructed substantially in accordance with the Tower and Interactive Fountain Renovation project plans, materials board and other submitted exhibits

stamped "Official Exhibit" with a RECEIVED stamp date of December 3, 2014, except as amended by the conditions listed below:

1. No changes shall be made to the approved building and site without written approval from the Corte Madera Planning Department. The Planning Director may refer changes to the Planning Commission for consideration and determination.
2. Plans submitted for building permit for the tower shall include timer(s) and dimmer(s) for the lighting on or above the roof line.
3. Light sources for the new tower shall not create a glare or hazard on adjoining streets, properties or residential areas. If it is determined that such glare exists, the illumination shall be adjusted to an acceptable level.
4. Prior to scheduling any of the required final inspections, the applicant shall notify Planning Staff and arrange a nighttime inspection so staff can approve the brightness of the various lights on and within the tower.
5. Plans submitted for building permit shall show all exterior lighting shielded and/or directed so it does not glare off-site.
6. Prior to a final building inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval.
7. Plans submitted for building permit shall include a statement that the area around the elephant sculpture and new fountain is intended to be developed as a seating area.

BUILDING DEPARTMENT

8. Building permits are required for this project. Please contact the Corte Madera Building Department for specific submittal requirements. Plans shall comply with the 2013 Building Standards Codes.

FIRE DEPARTMENT

9. The project shall be provided with an automatic sprinkler system. The design and calculations for the system shall be approved by the Fire Department prior to close-in of framing.

PUBLIC WORKS/ENGINEERING DEPARTMENT

Special Flood Hazard Area

10. This project is an improvement to an existing structure within a FEMA-designated Special Flood Hazard Area (SFHA). Municipal Code Title 16, Protection of Flood Hazard Areas, requires that new structures or "substantially improved" existing structures

in a SFHA must conform to all applicable flood damage prevention provisions. Prior to the issuance of Building Permit, a determination regarding “substantial improvement” will be made and a **Floodplain Development Permit** will be issued by the Public Works Department for the project. If the work is found to be a “substantial improvement”, the project must conform to the requirements of Chapter 16.10.080 of the Municipal Code.

Construction Operations

11. Per Town Resolution No. 3314, a project over \$10,000.00 is subject to the **Street Impact Fee** equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.
12. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of \$10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the project, including all landscaping, is completed and all required repairs have been made.
13. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.
14. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment brought to the construction site shall be transported by truck.
15. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

PRECISE PLAN EXPIRATION

16. The Precise Plan approval shall lapse and become null and void one year following the date on which the approval becomes effective unless, prior to the expiration of one year, a building permit is issued and remains active per Building Code requirements on the site which was the subject of the application, a Certificate of Occupancy is issued for the site or structure which was the subject of the application. Design Review approval may be

renewed as prescribed in Section 18.30.090 of the Town Zoning Ordinance.

INDEMNIFICATION AGREEMENT

17. The applicant/owner shall:

- A. Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as “proceeding”) brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul an approval of Precise Plan Amendment No. 14-002, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.
- B. Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.
- C. In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney’s office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.
- D. In the event that the Town is require to initiate legal action to enforce the above indemnification conditions, the applicant shall indemnify the Town for any and all costs and fees incurred by the Town in connection with that enforcement action.

APPEAL PERIOD

18. No building permit, Certificate of Occupancy, or other Town approval shall be issued until the expiration of the appeal period. The appeal period extends ten calendar days from the date the decision of the Planning Commission or Zoning Administrator was made. Unless a shorter statute of limitations period applies, the time within which judicial review must be sought is governed by California Code of Civil Procedure Section 1094.6.

STOP WORK ORDER - RED TAG ORDINANCE

19. Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.

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I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 16th day of December 2014, by the following vote, to wit:

AYES: Councilmembers: Bailey, Condon, Furst, Lappert

NOES: Councilmembers: None

ABSTAIN: Councilmembers: None

ABSENT: Councilmembers: Ravasio


Carla Condon, Mayor

ATTEST:


Rebecca Vaughn, Town Clerk