

SAUSALITO PLANNING COMMISSION NO. 2021-23
September 8, 2021
12 EI PORTAL AND 690 BRIDGEWAY
DR-MUP-EA 21-00131

ATTACHMENT 3: CONDITIONS OF APPROVAL

These conditions apply to the project plans prepared by Michael Rex Architects, date-stamped August 16, 2021.

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION CONDITIONS OF APPROVAL:

1. It shall be the applicant's/property owner's responsibility to diligently proceed to carry out the conditions of approval and implement any approved permit/entitlement. This shall include establishing the approved use within the time limits set forth by the applicable chapter (reference Sausalito Municipal Code (SMC) Section 10.50.120).
2. The Design Review Permit shall expire two years following the effective date of the permit if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date. The project entitlement pursuant to the Design Review Permit is determined to be implemented if the applicable conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued.
3. The Minor Use Permit shall expire two years following the effective date of the permit if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date. The project entitlement pursuant to the Minor Use Permit is determined implemented if the applicable conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued. (SMC Section 10.58.120)
4. The Encroachment Agreement shall expire two years following the effective date of the agreement if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date. The project entitlement pursuant to the Encroachment Agreement is determined implemented if the applicable conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued. (SMC Section 10.56.130).
5. All conditions of approval shall be included on the first sheet after the cover sheet of the construction drawings submitted for a Building Permit.
6. As part of the Building Permit application, all final Conditions of Approval shall be restated on the construction drawings and applicant shall thoroughly and accurately document in writing compliance with each Condition of Approval at the time of Building Permit application and any other subsequent submittals.
7. Except as otherwise noted in these conditions of approval, the plans submitted to the *12 El Portal and 690 Bridgeway Exterior Modifications Resolution No. 2021-23*

September 8, 2021

Building Division for plan check shall be identical to those approved by the City Council, with plan date of August 16, 2021. If any changes are made to the approved plans the applicant is responsible for clearly identifying all such changes and reviewing them with the Planning Department prior to submitting for a Building Permit or a revision to the Building Permit. All changes made to the Design Review Plans approved by the Planning Commission (or any subsequent grant of approval for minor modifications to the project pursuant to SMC Section 10.50.180 granted by the Community Development Director) and the Building Permit construction document submittal must be clearly highlighted with a “bubble” or “cloud” on plans and marked with a “Delta” at the time of initial Building Permit submittal. A list describing in detail all such changes shall be submitted and attached to the plans. Any changes that have not been clouded on the plans and noted in a transmittal memo and explicitly approved by the Director through the required approval process in the Sausalito Municipal Code are not approved. Construction, demolition or grading that does not conform to the City Council/ Director approval is not valid and shall be subject to stop work orders and may require removal.

8. The proposed planter boxes (Sheet A-100), guardrail (Sheet A-200), and exterior lighting (Sheet A-200) are approved upon review and approval of a Certificate of Appropriateness by the Historic Preservation Commission. If the Historic Preservation Commission issues a Resolution denying the Certificate of Appropriateness for the planter boxes and exterior lighting or directs design, size or location changes to planter boxes, guardrail, and/or exterior lights from those shown on Sheet A-100 and A-200, these items shall be reviewed by the Planning Commission through a modification to the Design Review Permit. The proposed planter boxes, guardrail and exterior lighting shall be submitted with application for a Certificate of Appropriateness in tandem with the proposed signage plan for review and action by the Historic Preservation Commission.
9. The proposed signage (Sheet A-200) is not approved. Within three months of the effective date of this approval, the applicant shall develop a proposed Signage Program for all commercial tenants of the subject site and submit application for a Certificate of Appropriateness from the Historic Preservation Commission and the Planning Commission for a Sign Permit for a Signage Program. All signage at the subject site shall be consistent with the approved sign program.
10. Pursuant to Table 10.44-2, a Conditional Use Permit is required for establishments serving any alcoholic beverage for consumption on the premises. This approval does not authorize any alcohol service at the subject site unless it is expressly authorized by the Planning Commission through the issuance of a Conditional Use Permit and a Type 41 Alcohol Beverage Control license.
11. Pursuant to SMC Section 10.44.220.C.5, consumption of alcoholic liquor or other alcoholic beverages on any public sidewalk shall require City Council approval. This approval does not authorize any alcohol service on the public sidewalk unless it is expressly authorized by the City Council.

12. This approval does not allow for the placement of outdoor tables and chairs on-site (i.e. outside of the right-of-way). Any seating provided on-site is subject to additional parking requirements of SMC 10.44.220.E.1.
13. The Community Development Director is authorized to approve minor modifications to the project, pursuant to the SMC Section 10.50.180 regarding changes to an approved project. Major project modifications will require review and approval by the Planning Commission.
14. Any mechanical equipment installed in connection with this project shall be subject to SMC Section 12.16.130 - Machinery, equipment, fans, and air conditioning.
15. No alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Director as a modification to this approval.
16. At the time of building permit application, the owner or designee shall file a reasonable estimate of the value of the project, and based thereon, a construction time limit shall be established for the project in accordance with the criteria set forth in SMC Section 10.54.100. The following conditions apply:
 - a) The owner or designee shall submit information reasonably requested by the Community Development Director to support the estimated value of the project such documentation may include without limitation an executed construction contract.
 - b) The time for completion of the construction shall also be indicated on the construction permit.
 - c) For projects exceeding \$500,000 in project valuation, a detailed GANTT chart (or other graphic display acceptable to the Community Development Director) depicting the sequence of steps necessary for completion of the project, including detailed information on the critical path of the project, duration of critical tasks, and predicted inspection dates, shall be submitted prior to the issuance of any construction permit.
 - d) Once approved, the property owner shall provide the City with written quarterly job progress reports consistent with the approved chart.
17. Upon building permit submittal, the owner or designee shall provide electronic copies of the approved colors and materials board(s), including but not limited to all manufacturers' information related to materials, specifications, and cut sheets for all exterior lighting fixtures.
18. The owner or designee shall post signage on the project site in a location clearly visible to and readable by the public which lists the construction hours, contractor's

name and cell phone number, and any special conditions of approval.

19. No alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Director or the Planning Commission as a modification to this approval.
20. The Applicant/Property Owners shall defend, indemnify (including reimbursement of all fees and costs reasonably incurred by separate counsel retained by the City) and hold harmless the City and its elected and appointed officials, officers, agents and employees, from and against any and all liability, loss, damage, or expense, including without limitation reasonable attorney's fees which City may suffer or incur as a result of any claims relating to or arising from the City's approval of the project or any portion of the project.
21. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
22. All applicable City fees as established by City Council resolutions and ordinances shall be paid. Third party review fees shall be paid as required. All outstanding development fees shall be paid.
23. Prior to installation and use of the permanent sidewalk dining, the applicant shall obtain a Sidewalk Dining Encroachment Permit from the Community Development Department as outlined in SMC Title 17 and shall meet the requirements of SMC 10.44.220.C, including all standard conditions of SMC 10.44.220.C.3., including the following:
 - a. Safe Passage. The sidewalk immediately adjacent to the restaurant shall have adequate space to accommodate tables and chairs and shall provide adequate safe passage along the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and adequate passage of 48 inches in width shall be provided both along the sidewalk and from the curb to the sidewalk (to provide for two pedestrians walking side by side or by a single wheelchair). No tables or chairs shall be placed or allowed to remain on any sidewalk that inhibit passage.
 - b. Location. The sidewalk dining shall only be located as depicted on the approved site plan.
 - c. Cleanliness. Debris, litter or food matter shall be removed from the

sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.

- d. Food Service. The establishment obtaining the permit shall be engaged in food service and shall provide such service at the tables subject to the permit.
- e. Insurance. The applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the permit is in effect.
- f. Hold Harmless. The applicant shall enter into a sidewalk dining encroachment permit agreement prepared by and satisfactory to the City Attorney. The applicant shall agree to conform to these conditions and all applicable City ordinances. The applicant shall also agree to indemnify the City and hold the City harmless from and against all liability arising out of the applicant's activities under the permit or otherwise arising out of the applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.
- g. Orderliness. All tables and chairs shall be removed from the sidewalk whenever the restaurant is closed or when the restaurant is not serving patrons on the sidewalk. The permit shall provide for the placement of tables and chairs for the use of diners only. The restaurant shall not be permitted to place any other structures or objects of any sort along or in the sidewalk. No entertainment shall be permitted along the sidewalk by the restaurant. No food preparation shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.
- h. Preeminence. The applicant shall acknowledge that its use of the sidewalk under the permit is subordinate to the public's right to use the sidewalk for passage and travel. The permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
- i. Fee. The applicant shall be required to pay the City an annual permit fee, based on square footage of the permit area, as established by resolution of the City Council.
- j. Compliance with All Regulations. The applicant shall comply with all regulations of the City of Sausalito, the State Alcoholic Beverage Control

and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.

- k. Revocable. All sidewalk dining minor use permits and sidewalk dining encroachment permits shall be subject to permanent revocation by the City at any time.

DEPARTMENT OF PUBLIC WORKS CONDITIONS OF APPROVAL:

General Items

- 1) As part of the Building Permit application, all final Conditions of Approval shall be restated on the construction drawings and applicant shall thoroughly and accurately document in writing compliance with each Condition of Approval at the time of Building Permit application and any other subsequent submittals.
- 2) The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.

Stormwater Pollution Prevention

- 3) During construction, the applicant's contractor shall adhere to a water pollution prevention plan that at a minimum follows guidelines in MCSTOPPP's "Pollution Prevention It's Part of the Plan"
[<http://www.marincounty.org/depts/pw/divisions/mcstoppp/~media/Files/Departments/PW/mcstoppp/business/Pollution%20Prevention%20Part%20of%20the%20PlanOctober%202011.pdf>]. The plan shall address construction related site management practices including demolition, general construction, concrete, paving, dewatering, contaminated soils, masonry, tile work, painting, litter control, motor vehicle washing and maintenance, storage of hazardous materials.

Right of Way Items

- 4) Prior to issuance of a Certificate of Occupancy, applicant shall repair or replace, at no expense to the City, damage to public facilities that results from applicant's construction activities. Applicant is advised that applicant's contractor shall save and protect all existing facilities not designated for removal or modification within the public right of way.
- 5) Improvements within the public right of way shall conform to the Cities and County of Marin "Uniform Construction Standards," available online at:
<http://www.marincounty.org/depts/pw/divisions/land-use/ucs>.

Utility Items

- 6) Prior to issuance of a Building Permit, applicant shall submit a video of the sanitary sewer lateral servicing 12 El Portal for review by the City Sewer Systems Coordinator (SSC). If sewer laterals servicing other properties require relocation, video of these laterals shall also be submitted for review. The video inspection(s) shall follow the requirements listed on the City's website, under "Sewer Video Guidelines, Mandatory Requirements & Video Submittal Form".

[<http://www.ci.sausalito.ca.us/index.aspx?page=1015>]
- 7) Prior to issuance of a Building Permit, any defects or updates required by the SSC, including but not limited to those cited in the SSC's April 5, 2013 memo shall be completed to his satisfaction.

Engineering Items

- 8) Applicant is advised that encroachment permit(s) shall be obtained from the City prior to using the public right of way for non-public purposes (e.g., private parking, material & debris box storage, curb, gutter or sidewalk construction or demolition, driveway connection).

Applicant is advised that a condition of issuance of an Encroachment Permit, a traffic control plan conforming to the current edition of Caltrans publication "California Manual on Uniform Traffic Devices, Part 6 – Temporary Traffic Control" shall be submitted for review and approval by the City. The traffic control plan shall show all temporary traffic, pedestrian and bicycle control measures and signage. El Portal shall remain open to traffic at all times throughout the duration of this project which shall be documented on the traffic control plan. The traffic control plan shall be revised to coordinate with other projects in the vicinity which may be ongoing or commence during the duration of this work.
- 9) Emergency vehicle access and access to adjacent properties shall be maintained at all times throughout the duration of this project.
- 10) Prior to issuance of an Encroachment Permit the City shall be named as an additionally insured on a separate endorsement sheet that modifies the general liability policy.
- 11) Encroachment Permit issued by the Department of Public Works is only applicable to the City of Sausalito right of way, the applicant is responsible for ensuring that they have obtain permission from property owners prior to the use of their land.
- 12) Construction workers shall be prohibited from using on-street parking in the vicinity of the project and the applicant shall lease, or otherwise provide, an adequate number of parking spaces in a City parking lot to provide parking for construction workers.
- 13) All exterior lighting shall be shielded and downward facing.

SOUTHERN MARIN FIRE DISTRICT CONDITIONS OF APPROVAL:

Prior to Building Permit submittal:

- 24.** Fire Sprinkler Installation- A fire sprinkler system shall be provided for the following:
- a) If the combination of the addition, alteration or remodeling exceeds 50% of the floor area of the existing structure, the project is considered a “substantial remodel” ** (see end for definition)List all deferred submittals on sheet A0.1.
 - b) Existing Buildings. In any building with an existing automatic sprinkler system, protection shall be extended to any all of alteration, repair, remodel or addition, regardless of job size so that 100% coverage is maintained.
 - c) In any building found to have OMEGA sprinkler heads identified as part of the U.S. Consumer Products Safety Commission recall and Viking VK457 sprinkler heads, all sprinkler heads subject to this recall shall be replaced with listed and approved heads.
 - d) Commercial fire sprinklers and alarm systems shall be monitored 24/7 for fire and trouble by an approved U.L. Central Station per 2019 CFC Section 903.4
- Fire sprinkler coverage shall be provided through the entire structure according to Chapter 9 of the California Fire Code. Fire sprinkler system shall be installed according to NFPA standards and Southern Marin Fire Standard 401.
- 25.** The road width shall be maintained to have a clearance of a minimum of 20 feet from curb to curb, per CFC 503.2.1. Access shall not be obstructed during any phase of the project.
- 26.** An emergency egress plan is required for both occupancies and shall include the following:
- a) Occupant load per CBC 1004
 - b) Exit door location per CBC 1007
 - c) Exit signage and illumination per CBC 1008
 - d) Fire protection equipment, such as fire extinguishers and fire alarm notification devices. Fire Extinguishers shall be required to comply with CFC Section 906.
- 27.** Required exits and interior exit stairways are required to show compliance with CBC 1022 and 1023, respectively. Section cuts and wall details are required for the building permit submittal.
- 28.** This project shall comply with California Fire Code Chapter 33 – Fire Safety During Construction and Demolition. These requirements include but are not limited to: Temporary Heating Equipment, Precautions Against Fire, Flammable and Combustible Liquids, Flammable Gases, Owners Responsibility for Fire Protection, Fire Reporting, Access for Fire Fighting, Means of Egress, Water Supply for Fire Protection, Standpipes, Automatic Fire Sprinkler Systems, Portable Fire Extinguishers, Motorized Construction Equipment, and Safeguarding Roofing Operations.

29. Fire access to the project as well as the other surrounding properties shall be maintained at all times. Unapproved restrictions in roadway access shall result in citations and vehicles being towed at the owner's expense.

Advisory Notes:

Advisory notes are provided to inform the applicant of Sausalito Municipal Code (SMC) requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. An approval granted by the Planning Commission does not constitute a Building Permit or authorization for construction. Appropriate construction permit(s) issued by the Building Division must be obtained prior to construction.
2. With the exception of the Minor Use permit for outdoor dining, this approval does not approve any other uses. An Occupational Use Permit, Minor Use Permit or Conditional Use Permit (pursuant to Table 10.24-1) is required whenever a business is established in a new location or tenant space, or when an existing business changes its location or changes the square footage of its floor area or land area.
3. Contact Building Division staff for information about the Building Permit process and for Building Permit requirements prior to submitting for a Building Permit.
4. Construction Impact Fees shall be paid in accordance with the Construction Impact Fee Ordinance. The fee is due prior to issuance of Building Permit.
5. All applicable City Fees as established by City Council resolutions and ordinances shall be paid.
6. Encroachment permit, grading permit, third party review fees (cost plus 10%) fees shall be paid.
7. An encroachment permit shall be obtained from the Department Public Works prior to using the public right of way for non-public purposes (e.g., material storage, construction, staging or demolition) including any and all construction and demolition activities.
8. Pursuant to Municipal Code Chapter 8.54, applicants shall submit a Recycling Management Plan to the Community Development Department prior to the issuance of any Building Permits, unless the requirement is waived pursuant to Section 8.54.050.
9. Pursuant to Municipal Code Chapter 11.17, dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with Section 11.17.060.B.

10. Pursuant to SMC Section 10.54.100, construction activities undertaken in accordance with a Design Review Permit shall comply with the construction time limit regulations based upon the project's valuation. Construction projects which are not completed within the time limits are subject to daily penalties.
11. Pursuant to SMC Section 12.16.140, the operation of construction, demolition, excavation, alteration, or repair devices and equipment within all residential zones and areas within a 500 foot radius of residential zones shall only take place during the following hours:

Weekdays – Between 8:00 a.m. and 6:00 p.m.
Saturdays – Between 9:00 a.m. and 5:00 p.m.
Sundays – Prohibited
City holidays (not including Sundays) – Prohibited

Homeowners currently residing on the property and other legal residents may operate the equipment themselves on Sundays and City holidays between 9:00 a.m. and 6:00 p.m.
12. Pursuant to Municipal Code Section 18.12.100, existing sewer service laterals shall be inspected for surface water connections and leakage at the time of remodeling of any building. Deteriorated sewer laterals shall be repaired prior to approval of the Building Permit.
13. Permits required by other agencies having jurisdiction within the construction area must be obtained in accordance with the respective agency's regulations.
 - a) Marin Municipal Water District – (415-945-1400), including landscaping and irrigation regulations;
 - b) Southern Marin Fire Protection District – (415-388-8182); and
 - c) Bay Conservation and Development Commission – (415-352-3600).
14. Pursuant to City of Sausalito Resolution 5116, roadway and subdivision improvements shall comply with the Uniform Construction Standards All Cities and County of Marin and as may be modified by the City Engineer.
15. Pursuant to City of Sausalito Resolution 5117, new private sewer construction shall comply with the City of Sausalito Standard Specification.