

**SAUSALITO PLANNING  
COMMISSION RESOLUTION NO.  
2023-05**

**APPROVAL OF A DESIGN REVIEW PERMIT TO DEMOLISH AN EXISTING ONE-STORY  
COMMERCIAL ART STUDIO BUILDING, SITE BLOCK WALLS AND DECKS AND  
CONSTRUCT A COMBINATION ONE AND TWO-LEVEL STRUCTURE WITH ROOF DECKS,  
LOCATED AT 265 GATE 5 ROAD  
(APN 063-152-05)  
DR 2019-00235**

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**WHEREAS**, an application has been filed by applicants, Matt Innins of Ehrlich, Yanai, Rhee, Chaney architects, on behalf of the property owner, Max Houtzager, requesting Planning Commission approval of a Design Review to demolish an existing one-story commercial art studio building, site block walls and decks and construct a combination one and two-level structure with roof decks at 26 Gate 5 Road (APN 063-152-05); and

**WHEREAS**, the project site is located within the Industrial (I) and Marinship (M) zoning district; and

**WHEREAS**, the Historic Preservation Commission reviewed the Historic Resource Determination Information Packet (HRDIP) on September 16, 2021 and determined that the subject property does not satisfy any of the qualifying criteria for a historical resource; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing on September 21, 2022, at which time all interested persons were given an opportunity to be heard and the Planning Commission continued the item to a Study Session to January 25, 2023; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing Study Session on January 25, 2023, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearings on March 29, 2023, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission has reviewed and considered the project plans titled "265 Gate 5 Road" and date-stamped March 10, 2023, and considered the information contained in the staff report as well as any and all oral and written testimony on the proposed Project; and

**WHEREAS**, the Planning Commission finds that the proposed Project, as conditioned herein, is consistent with the General Plan and complies with the requirements of the Zoning Ordinance as described in the staff report dated March 29, 2023; and

**WHEREAS**, the Project is exempt from the application of CEQA Guidelines section 15303(c), as it is substantially similar land use to a store, motel, office, restaurant or similar structure, the project will not involving the use of significant amounts of hazardous substances, and the project is in an urbanized area and the exemption applies up to four such commercial

buildings not exceeding 10,000 square feet in floor area and all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive, and in the alternative under CEQA Guidelines section 15332, as it is consistent with applicable general plan policies and zoning requirements, with city limits, on a site of no more than five acres and surrounded by urban uses, and has no value as habitat, and the approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality, and the site can be adequately served by all required utilities and public services; and

**WHEREAS**, the Planning Commission finds that, as conditioned herein, the Project is consistent with the General Plan and complies with the requirements of the Zoning Ordinance and Subdivision Regulations.

**NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:**

1. The Project is exempt from CEQA pursuant to CEQA Guidelines section 15303 and 15332, for the reasons set forth above.
2. The Design Review Permit for the Project as shown in the Project plans titled "265 Gate 5 Road" date-stamped March 10, 2023 (Attachment X) is approved based upon the attached findings (Attachment 1), subject to the attached conditions of approval (Attachment 2).

**RESOLUTION PASSED AND ADOPTED**, at the regular meeting of the Sausalito Planning Commission on the 29<sup>th</sup> day of March 2023, by the following vote:

AYES: Chair Luxenberg, Junius, Feller, Graef, Saad  
NOES:  
ABSENT:  
ABSTAIN:



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Brandon Phipps  
Community and Economic Development Director

- Exhibits
- 1 Sausalito Municipal Code Findings
  - 2 Conditions of Approval
  - 3 Project Plans, date stamped March 10, 2023.

**SAUSALITO PLANNING COMMISSION NO.  
2023-05 March 29, 2023  
265 GATE 5 ROAD  
DR/ DR 2019-00235**

**EXHIBIT A  
FINDINGS FOR APPROVAL OF A  
DESIGN REVIEW PERMITS**

**1. DESIGN REVIEW PERMIT FINDINGS**

In accordance with Zoning Ordinance Section 10.54 (Design Review Procedures), the Design Review Permit is approved based on the following findings:

1. *The proposed Project is consistent with the General Plan, any applicable specific plans and this chapter.*

Comment: The project would be consistent with the intent of the General Plan by expanding an existing, permitted artist colony and would not exceed the maximum allowed development thresholds within the Zoning Ordinance and the project is consistent with the land use, scale and density of existing development within the area. The proposed project as conditioned is consistent with all applicable policies, standards, and regulations of the General Plan, Marinship Specific Plan, as described in the Staff Report dated March 29, 2023, and outlined above.

2. *The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.*

Comment: The proposed site design of all structures compliments the surrounding neighborhood by maintaining the prevailing design character of the neighborhood. The projects' proposed architecture is a modern design, integrating design harmony between form and function of structures over ornamentation materials and relate to the area's shipping and industrial history by utilizing materials at the ground level that are tactile and warm, like western red cedar wood siding. The second level of the project include materials more industrial and subdued, such as a variety of metals, creating a distinct industrial/marine character on the project site. Further, the project includes a variety of heights along the front property line to minimize potential massing effects of the structure.

The area includes a variety of land uses, therefore, the neighborhood includes a variety of architectural styles, including modern and industrial, mid-century residential and traditional coastal, with a variety of materials, including stucco, wood siding and aluminum siding as well as a variety of roof style, including ridged and flat. The proposed structures on the project site would maintain the prevailing design character of the neighborhood by utilizing materials that are consistent with surrounding residential structures.

3. *The proposed project's use is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.*

Comment: The subject property is currently an existing artist colony and contains one, large, one-level structure and several storage containers, all of which would be demolished. The proposed project would utilize the parcel to the maximum extent, while complying with development requirements. The subject property is located within the Industrial-Marinship district and the project would be consistent with the scale of development in the area. The existing use is permitted for artist studios and the proposed use would also be the same.

- 4. The proposed Project has been located and designed to minimize obstruction of public views and primary views from private property.*

Comment: The proposed project does not obstruct public views and has been designed to minimize obstruction of primary views from private property utilizing pass through areas and roof decks. The project incorporates open space areas by including ground level patio areas and roof decks that capture views of the Richardson Bay and Mount Tamalpais.

- 5. The proposed Project will not result in a prominent building profile (silhouette) above a ridgeline.*

Comment: The subject parcel is not located along a ridgeline and thus the Project will not result in a prominent building profile above a ridgeline.

- 6. The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.*

Comment: The project includes the installation of approximately 161 plants to be installed within two rain gardens, totaling 561 square feet, an additional 478 plants to be installed throughout the site, as well as eight (8) trees. Additional landscaping would total 1,549 square feet and be located along the front and rear property line, the front entrance, as well as some interior locations. Proposed deck areas would include raised planter beds. All plant materials would be drought tolerant. The proposed landscaping provides visual relief, compliments the building and structures on the site, and provides an attractive environment for the enjoyment of potential community gatherings.

- 7. The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.*

Comment: The project includes the construction of four separate structures, to be connected at the second level, creating several, ground floor, visual pass throughs, allowing for substantial light and air into the complex. The structures are placed away from the center of the parcel, creating open patio areas, allowing for a more open environment feel for the property.

- 8. Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise, and air quality impacts to adjacent properties and the general public.*

Comment: Exterior light is appropriately designed and located to minimize visual impacts to adjacent properties and the general public. All exterior lighting will be hooded and downward casting. The proposed project will not have mechanical equipment and does not propose chimneys.

9. *The Project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window, deck, and patio configurations.*

Comment: Although the project is surrounded by other parcels zoned industrial, containing non-residential uses the project would provide a reasonable level of privacy to the site and adjacent properties, utilizing landscaping, fencing, and window configurations.

10. *Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.*

Comment: The project includes one entry/exit along Gate 5 Road, to the southeast of the parcel and the site would contain 20 standard parking spaces, two of which would be handicap accessible. The parking area would be limited to the eastern portion of the subject property. Entry/exit, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement and the project has been reviewed by Public Works. To accommodate adequate emergency egress and ingress, the proposed driveway would have a minimum width of 20' – 3"

11. *The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.*

Comment: The project contains minimal plant materials and does not contain any on-site trees and includes the installation of approximately 1,549 square feet of landscaping in addition to the installation of eight (8) trees.

12. *The Project site is consistent with the guidelines for heightened review for projects which exceed 80 percent of the maximum allowed floor area ratio and/or site coverage, as specified in subsection E of this section (Heightened Review Findings)*

Comment: The project is not located with a residential district, therefore, the project is not subject to Heightened Design Review Findings.

13. *The Project has been designed to ensure on-site structures do not crowd or overwhelm structures on neighboring properties. Design techniques to achieve this may include, but are not limited to stepping upper levels back from the first level, incorporating façade articulations and divisions (such as building wall off-set), and using varying rooflines.*

Comment: The project has been carefully designed to ensure that on-site structures do not crowd or overwhelm the structures on neighboring properties by stepping back the second level and creating visual pass-through corridors. The design complies with all requirements (e.g. setbacks, height, etc.) of the Zoning Ordinance.

**SAUSALITO RESOLUTION NO. 2023-05**  
**March 29, 2023**  
**265 GATE 5 ROAD**  
**DR/ DR 2019-00235**

**EXHIBIT B: CONDITIONS OF APPROVAL**

These conditions apply to the Project plans prepared by entitled "265 Gate 5 Road" and date-stamped March 10, 2023.

**COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION CONDITIONS OF APPROVAL:**

**General Items:**

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 SMC 10.50.120).
2. 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.
3. The building permit application shall be submitted and must be approved by staff, prior to the issuance of any demolition permit.
4. The Project shall be designed as shown in the set of plans dated stamped March 10, 2023.
5. The applicant shall submit a plant material list demonstrating compliance with Southern Marin Fire District plant material requirements. Replacement plant material must be consistent with such requirements. Invasive plants shall not be permitted.
6. Fire-hazardous plants, as cited <https://firesafemarin.org/create-a-fire-smart-yard/plants/fire-hazardous-plants/> are not permitted.
7. Exterior lighting shall be shielded and downward facing.
8. Community Development Staff shall work with the architect in evaluating larger dimensions of corrugated sheeting for the cladding on particular portions of the building and attempt to make minor modifications to the volumes fronting onto Gate 5 Road to separate the various elements of the project design.
9. The Applicant/Property Owners shall defend, indemnify (including reimbursement of all attorneys' fees and costs incurred 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, claim, damage, or expense (including without limitation attorneys' fees), which may arise out of or concern any City permit decision or approval related to the project, including without limitation, challenges to project approvals or permits under the California Environmental Quality Act.

10. 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.
11. Prior to issuance of the Certificate of Occupancy, all applicable City fees as established by City Council resolutions and ordinances shall be paid. Third party review fees (cost plus 9%) shall be paid.
12. Pursuant to Sausalito Municipal Code Section 10.50.120 (Implementation of Permits), it shall be the Applicant's responsibility to diligently proceed to carry out the Conditions of Approval and implement any approved permit. This shall include establishing the approved use/implementing the permit within the time limits set forth by the applicable chapter.
13. 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 shall be deemed implemented if the applicable conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued.
14. Any mechanical equipment installed in connection with this Project shall be subject to Sausalito Municipal Code section 12.16.130 - Machinery, equipment, fans, and air conditioning.
15. At the time of building permit application, the applicant 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 applicant 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.

**DEPARTMENT OF PUBLIC WORKS CONDITIONS OF APPROVAL:**

Prior to the issuance of a Building Permit the applicant shall address the following:

**General Items::**

16. 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.
17. Prior to issuance of a building permit the Applicant's architect or civil engineer shall submit an elevation certificate. The regulatory flood plain is established by elevation. Use NAVD88 for the vertical datum. The applicant is advised that project conditions of approval will require that the structure be appropriately flood-proofed with one foot of freeboard.
18. Applicant shall provide elevations in NAVD 88 and note the datum on each sheet that includes elevations prior to building permit issuance.
19. Floodproof design review shall be required by Public Works prior to issuance of a Building Permit.
20. Prior to issuance of a building permit, the Applicant shall provide copies of any required permits from other agencies prior to building permit issuance. This may include BCDC, Corp of Engineers and Fish and Wildlife since the project is located within the bay.
21. Third party peer reviews shall be required as determined by the City Engineer or authorized designee. Such review shall be performed at the Applicant's expense and may include the review of the utility plans, erosion control plans, post construction pollution prevention plans, field inspections of permitted work. Developer shall submit a deposit to the City prior to review as provided for in the Master Fee Schedule in effect at the time of complete application.

**Grading / Geotechnical Items**

22. Applicant shall provide a geotechnical report stamped and signed by a licensed Geotechnical Engineer for review and approval by the Department of Public Works prior to building permit issuance. The project shall adhere to all recommendations in the approved Report of Geotechnical Investigation.
23. Prior to issuance of a Building Permit the foundation plans shall be reviewed and approved by City engineering staff.

**Stormwater Pollution Prevention**

24. Prior to issuance of a Building Permit the Applicant's civil engineer or contractor shall submit a detailed erosion control plan, including cost estimate, for review and approval by the Department of Public Works. Erosion control plan shall incorporate guidelines and measures from the Marin County Stormwater Pollution Prevention Program's (MCSTOPPP) publication "Minimum Erosion/Sediment Control Measures for Small Construction Projects".



[[http://www.marincounty.org/~media/files/departments/pw/mcstoppp/development/erosionsediment-control-measures-for-small-construction-projects-\\_2015.pdf?la=en](http://www.marincounty.org/~media/files/departments/pw/mcstoppp/development/erosionsediment-control-measures-for-small-construction-projects-_2015.pdf?la=en)]

25. Applicant shall ensure that Applicant's contractor implements and maintains erosion control measures per the approved erosion control plan for the duration of the project.
26. Applicant shall ensure that Applicant's contractor provides adequate dust and debris control measures for the duration of the project.
27. 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 addresses 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**

28. 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.
29. 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**

30. Prior to issuance of a building permit a utility plan shall be submitted for review and approval. All utilities and meters shall be shown on the utility plan. Each structure shall be served by individual utilities.
31. Prior to issuance of a building permit project plans shall show the location and depth of the proposed sanitary sewer lateral from point of origin to termination in the public sanitary sewer system.
32. The sewer plans shall show the existing sanitary sewer lateral(s) to be properly destroyed and all new sanitary sewer lines serving the project from their point(s) of origin to their final termination point(s) at the public sanitary sewer system and indicate the materials and dimensions (diameter) of the existing and proposed improvements.
33. Applicant shall demonstrate prior to building permit issuance that waste plumbing associated with the project shall comply with the most stringent of the requirements set forth in the Sausalito Building Code, the California Plumbing Code and the

Standards of the City of Sausalito as amended.

34. Prior to approval from the City of Sausalito's Sewer Systems Coordinator, no backfill of the sanitary sewer lateral or main trench shall occur. Sewer pipe material and sewer appurtenances shall be per the recommendations of the City Sewer Systems Coordinator. Allowable pipe material shall depend upon the depth of the proposed new sanitary sewer below grade.
35. Prior to issuance of Certificate of Occupancy an as built video inspection shall be submitted of the new sanitary sewer system for inspection and verification by the Sewer System Coordinator.

**Engineering Items**

36. All exterior lighting shall be shielded and downward facing.
37. Prior to issuance of a Certificate of Occupancy, the Applicant's civil engineer or professional land surveyor shall certify each finish floor elevation conforms to the approved plans.

**SOUTHERN MARIN FIRE DISTRICT CONDITIONS OF APPROVAL:**

Applicant shall comply with any applicable conditions of approval imposed by the Southern Marin Fire District.

**Advisory Notes**

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

38. An approval granted by the Engineering Division of the Department of Public Works 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.
39. Construction Impact Fees shall be paid in accordance with the Construction Impact Fee Ordinance. The fee is due prior to issuance of Building Permit.
40. All applicable City fees as established by City Council resolutions and ordinances shall be paid.
41. Encroachment permit, grading permit, third party review fees (cost plus 10%) fees shall be paid.
42. Grading/drainage permit(s) if necessary shall be obtained from the Department Public Works for earthwork of 50 cubic yards or more.
43. 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.

44. 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.

45. Pursuant to Sausalito Municipal Code 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.

**SAUSALITO PLANNING COMMISSION NO. 2022-05**

**March 29, 2023  
265 GATE 5 ROAD  
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**EXHIBIT C: PROJECT PLANS**