

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
REZONING ASSESSOR'S PARCEL NUMBER 006-091-65 (SPAULDING STREET AND
LUNA LANE) FROM RESIDENTIAL SINGLE FAMILY (R-1) WITH A SPECIFIC PLAN
DEVELOPMENT (SPD) OVERLAY TO LIMITED COMMERCIAL (C-L) WITH A SPECIFIC
PLAN DEVELOPMENT (SPD) OVERLAY**

WHEREAS, an application was filed with the Town of San Anselmo on July 29, 2010, requesting a General Plan Amendment to change the existing land use designation from Parks/Open Space to Limited Commercial; and a Rezoning from Residential Single Family (R-1) with a Specific Plan Development (SPD) overlay to Limited Commercial (C-L) with a Specific Plan Development (SPD) overlay; and Design Review for a proposed 12 space, ±4,000 square foot parking lot with retaining walls ranging in height from 2 feet to 6.5 feet and associated landscaping; and a Grading Permit to cut and fill over 100 cubic yards of earth or material located at Luna Lane and Spaulding Street, APN 006-091-65; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), staff prepared an Initial Study of potential environmental impacts for the proposed project and determined that potential impacts could be avoided or substantially reduced to a level of insignificance, with mitigation measures adopted as conditions of approval; and

WHEREAS, on September 27, 2011, a Mitigated Negative Declaration was posted in accordance with the Government Code, providing a 20 day comment period as required by Public Resources Code § 21091; and

WHEREAS, on October 17, 2011, the Planning Commission held a duly noticed public hearing and received a staff report and public testimony regarding the Mitigated Negative Declaration, General Plan Amendment, Rezoning, Design Review and Grading Permit, and continued the matter for further information; and

WHEREAS, on December 5, 2011, the Planning Commission held a continued public hearing, received public testimony and at the close of the public hearing after considering the staff report and public testimony, voted unanimously to approve the Design Review for a proposed 12 space, ±4,000 square foot parking lot with retaining walls ranging in height from 2 feet to 6.5 feet and associated landscaping and a Grading Permit to cut and fill over 100 cubic yards of earth or material and to forward to the Town Council a recommendation for approval of the Mitigated Negative Declaration, General Plan Amendment; and Rezoning of Assessor's Parcel Number 006-091-65 (Luna Lane and Spaulding Street); and

WHEREAS, on March 13, 2012, the Town Council held a duly noticed public hearing and received a staff report and public testimony regarding the Mitigated Negative Declaration, General Plan Amendment and Rezoning for a proposed private parking lot located at Luna Lane and Spaulding Street, APN 006-091-65.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does hereby find as follows:

The Rezoning shall not have a significant adverse impact on the environment.

Staff prepared an Initial Study of potential environmental impacts and determined that potential impacts could be avoided or substantially reduced to a level of insignificance, with mitigation measures adopted as conditions of approval. A Mitigated Negative Declaration has been prepared and mitigation measures identified to avoid, substantially reduce, or compensate for the environmental impacts identified in the areas of Air Quality, Biology, Cultural Resources, Geology and Soils, Hydrology / Water Quality and Noise. These mitigation measures have been agreed to by the applicant and incorporated as draft conditions of approval.

The Rezoning in its entirety is in compliance with all provisions of the Town of San Anselmo General Plan.

The rezoning of the project site from R-1 with an SPD overlay to C-L with an SPD overlay will be consistent with all of the pertinent provisions of the Town's General Plan as discussed above. The designation of C-L with an SPD overlay will result in a consistency between the land use and zoning designations and furthermore, give the Town the ability to review future development proposals through an SPD Amendment.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Town Council rezones Assessor's Parcel Number 006-091-65 from Residential Single Family (R-1) with a Specific Plan Development (SPD) overlay to Limited Commercial (C-L) with a Specific Plan Development (SPD) overlay.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on the 13th day of March, 2012 and was adopted at a regular meeting on the ____ day of _____, 2012 by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Tom McInerney, Mayor

ATTEST:

Barbara Chambers, Town Clerk

Attachments:

1. Exhibit A - Conditions of Approval

EXHIBIT A

CONDITIONS OF APPROVAL

1. The Design Review and Grading Permit Approval will not go into effect unless and until the Town Council approves the Mitigated Negative Declaration, the General Plan Amendment and the Rezoning.
2. Planning approval is based on the plans and materials date stamped received by the San Anselmo Planning Department on November 14, 2011.
3. All mitigation measures required in the Mitigated Negative Declaration shall be incorporated into this project.

Mitigation Measure C.1

The following measures recommended by the BAAQMD shall be incorporated into all construction contracts and grading specifications associated with the project:

- Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times;
- All trucks to maintain at least two feet of freeboard and all hauling trucks to be covered pursuant to governing agency requirements. Dust-proof chutes shall be used as appropriate to load debris onto trucks during grading and construction;
- Sweep as necessary (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for ten days or more);
- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles;
- Limit traffic speeds on any unpaved roads to 15 mph;
- Replant vegetation in disturbed areas as quickly as possible;
- Suspend construction activities that cause visible dust plumes to extend beyond the construction site;
- Visibly post signs indicating that idling times for all diesel-powered construction equipment shall be limited to five minutes per California State Law (Title 13, Section 2485 of the California Code of Regulations);

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications; and
- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. This person shall respond to air quality complaints and take any necessary corrective action within 48 hours.

Mitigation Measure D.1

To the extent feasible, trees and shrubs in the construction zone or as part of implementing the Vegetation Management Plan shall be trimmed or removed between September 1 and January 31 to reduce potential impacts to nesting birds. If trees and shrubs must be removed during the period from February 1 to August 31, a qualified wildlife biologist shall conduct preconstruction surveys for nesting birds. Prior to initial disturbance of vegetation within the work zones, the biologist shall carefully search all trees and shrubs within 300 feet of the work zones. If an active nest is found, the bird shall be identified to species and the approximate distance from the closest work location to the nest shall be estimated. Minimum construction avoidance zones shall be established around any active nests, based on the species involved, with a minimum 300-foot setback established for raptors and a 75-foot setback for non special-status birds. If active nests are closer than these distances and there is a potential for destruction of a nest or substantial disturbance to nesting birds due to construction activities or vegetation removal, a plan to monitor the behavior of the nesting birds during construction shall be prepared by the biologist and submitted to the California Department of Fish and Game for review and approval. Disturbance of active nests shall be avoided to the extent possible until it is determined that nesting is completed and the young have fledged, at which time the nest is no longer considered in active use and can be destroyed if located within a tree or shrub to be removed as part of construction or vegetation management.

Mitigation Measure E.1

In the event any historical resource is discovered on the site, work shall be halted in the vicinity until a qualified historian inspects the discovery and, if necessary, implements plans for further evaluative testing, notifying of descendent(s) and / or retrieval of endangered materials.

Mitigation Measure E.2

In the event any archaeological resource is discovered on the site, work shall be halted in the vicinity until a qualified archaeologist inspects the discovery and, if necessary, implements plans for further evaluative testing and / or retrieval of endangered materials

Mitigation Measure E.3

In the event any unique paleontological or geologic resource is discovered on the site, work shall be halted in the vicinity until a qualified paleontologist or geologist inspects the discovery and, if necessary, implements plans for further evaluative testing and / or retrieval of endangered materials.

Mitigation Measure E.4

In the event of an accidental discovery or recognition of any human remains, the following steps should be taken pursuant to *CEQA Guidelines* 15064.5(e): There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until (A) the coroner of the county is contacted to determine no investigation of the cause of death is required, and (B) the coroner determines the remains to be Native American. The coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall identify the person or persons it believes to be the most likely descended from the deceased Native American. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of (with appropriate dignity) the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

In the event the NAHC is unable to identify a most likely descendent, or the most likely descendent failed to make a recommendation within 24 hours after being notified by the NAHC, or the landowner or his authorized representative rejects the recommendation of the descendent and the mediation by the NAHC fails to provide measures acceptable to the landowner, then the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

This mitigation should be a condition of project approval and applied to all grading and construction permits.

Mitigation Measure F.1

The project shall include the implementation of all of the recommendations contained in the geotechnical report by John C. Hom and Associates, Inc. July, 29, 2010. Furthermore, project development shall meet requirements of the California Building Code Vol. 1 and 2, 2010 Edition, including the California Building Standards, 2010 Edition, published by the International Conference of Building Officials, and as modified by the amendments, additions and deletions as adopted by the Town of San Anselmo. Incorporation of seismic construction standards would reduce the potential for

catastrophic effects of ground shaking, such as complete structural failure, but would not completely eliminate the hazard of seismically induced ground shaking

Mitigation Measure F.2

The project applicant shall implement the Erosion Control Plan submitted to the Town in conjunction with the Grading Permit Application. The Erosion Control Plan shall include winterization, dust, erosion, and pollution control measures conforming to the ABAG Manual of Standards for Erosion and Sediment Control Measures, with sediment basin design calculations. The Erosion Control Plan shall describe the "best management practices" (BMPs) to be used during and after construction to control pollution resulting from both storm and construction water runoff. The Erosion Control Plan shall include locations of vehicle and equipment staging, portable restrooms, mobilization areas, and planned access routes.

Recommended soil stabilization techniques include placement of straw wattles, silt fences, berms, and gravel construction entrance areas or other control to prevent tracking sediment onto Town streets and into storm drains.

Public works staff or representatives shall visit the site during grading and construction to ensure compliance with the grading ordinance and plans, and note any violations, which shall be corrected immediately.

In accordance with the Clean Water Act and the State Water Resources Control Board (SWRCB), the applicant shall file a Storm Water Pollution Prevention Plan (SWPPP) prior to the start of construction. The SWPPP shall include specific best management practices to reduce soil erosion. This is required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ).

Mitigation Measure I.1

The applicant shall implement a finalized Stormwater Pollution Prevention Plan (SWPPP), which shall include a drainage and erosion control plan for the construction phase of the project. This plan shall be finalized prior to obtaining a building permit from the Town of San Anselmo.

The finalized SWPPP shall include strategies to minimize any impacts from erosion and sedimentation during grading and site construction. The SWPPP shall include proper winterization methods and adequate phasing to cover the entire term of proposed construction.

The most appropriate control method, as recommended by the San Francisco Bay Area Regional Water Quality Control Board, shall be used. The plan may include, but is not limited to, the following methods:

- Restricting grading to the dry season, if necessary and practical; protecting all finished graded slopes from erosion using such techniques as erosion control matting and hydro-seeding; protecting downstream storm drainage inlets from sedimentation;
- Using silt fencing and straw wattles to retain sediment on the project site; use of temporary water conveyances and water diversion structures to eliminate surface runoff; and,
- Other suitable measures outlined in the Association of Bay Area Governments' (ABAG) Manual of Standards for Erosion and Sediment Control Measures or the San Francisco Bay Regional Water Quality Control Board's Erosion and Sediment Control Field Manual; in case of a conflict between the two manuals, the latter shall prevail.

After construction is complete, all drainage culverts shall be inspected for accumulated sediment. If sediment accumulation has occurred, it is the applicant's responsibility to clear all drainage structures of debris and sediment.

Mitigation Measure L.1

The following measures shall be incorporated into all project construction specifications.

- Restrictions on idling of construction equipment and trucks.
- Limit shall be applied to noise from construction workers radios so as not to be audible off the site.
- At all time during grading and construction, stationary noise-generating equipment shall be located as far as practical from sensitive receptors and placed so that emitted noise is directed away from nearby residences.

- Designate a disturbance Coordinator for the duration of applicant-implemented construction. The disturbance coordinator shall:
 - a) Receive and act on complaints about construction disturbances throughout the construction process.
 - b) Determine the cause(s) and implement remedial measures as necessary to alleviate significant problems.
 - c) Clearly post his /her name and phone number(s) on a sign at each construction site

4. Prior to issuance of a building permit, the applicant shall do the following:

- a) Submit to the Town Attorney for review and approval a "Declaration of Restrictions and Grant of Parking Easement" ("Parking Easement"). The Parking Easement shall be recorded against the title of properties 006-091-08 (110/112 Spaulding Street) and 006-091-03 (640 Sir Francis Drake Boulevard) and the project site 006-091-65 and provide that parcels 006-091-08 (110/112 Spaulding Street) and 006-091-03 (640 Sir Francis Drake Boulevard) have a perpetual right to park vehicles on the project parcel 006-091-65.
- b) Once the "Parking Easement" is approved by the Town Attorney it must be recorded with the County of Marin.

5. Plans submitted for building permit shall include a sign at both access points of the parking lot prohibiting any type of vehicle repair within the parking lot. The design and wording of the sign shall be submitted to Town staff for review and approval prior to issuance of a building permit.

6. Plans submitted for building permit shall include an asphalt valley gutter from the end of the proposed exit drive of the parking lot to the storm drain at the intersection of Spaulding Street and Luna Lane, subject to review and approval by the Town's Public Works Department.

7. Plans submitted for building permit shall include:

- a) bioretention to collect and delay peak runoff rates which may include a curbed-in area to retain water and allow time for infiltration into the sub grade;
- b) drainage swale at the front of the property to the storm water catch basin and;
- c) net zero change or a negative change to storm water runoff.

8. Plans submitted for building permit shall include no parking signs along the project frontage of Spaulding Street and Luna Lane, subject to review and approval by the Town's Public Works Department.

9. No grading work shall be allowed to occur prior to April 15th with all grading to be completed by October 15th.

10. A grading bond in the amount of \$5,000 shall be posted at the time of building permit submittal.
11. All disturbed soil shall be replanted and/or erosion control measures be in place prior to October 1st.
12. If a complete building permit application including the required fees is not submitted to the Town for this project within one year from the date of this approval, the approval shall be considered null and void. A one-time-only, one-year extension can be requested in writing to the Planning Director or appropriate town staff prior to the expiration date.
13. The property owner shall indemnify and hold harmless the Town of San Anselmo and its officers and/or employees in the event of any legal action related to or arising from the granting of this approval and shall cooperate with the Town in the defense of any such action, and shall indemnify the Town for any award of damages and/or attorneys' fees and associated costs that may result.

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