



STAFF REPORT

TO: PLANNING COMMISSION
FROM: Dina Tasini, Contract Planner
DATE: October 25, 2011

GENERAL INFORMATION

OWNER/ APPLICANT: The Center/Jim Taylor
LOCATION: Home Depot/Walmart Center and a one acre parcel at 1047 Arnold Drive – just east of The Home Depot
GENERAL PLAN: John Muir Specific Area Plan – Mixed/Commercial & Residential up to 29 units/acre
ZONING: M-R-1.5/CC Mixed Multi-family Residential/Central Commercial
ENVIRONMENTAL REVIEW: Staff proposes that the Planning Commission find that this permit be categorically exempt (Section 15305-Minor Alterations in Land Use Limitations) from the requirements of CEQA. If the Planning Commission adopts this proposed finding, no further environmental review would be required by State law.
PROPOSAL: A request to amend conditions of approval for Use Permit #02-14 requiring an agreement for additional parking spaces to serve The Home Depot garden center located at 1047 Arnold Drive in the M-R1.5/CC Mixed Use Multifamily Residential/Central Commercial zoning district. Approval of this request would remove condition requiring additional parking on adjacent vacant lot.

BACKGROUND and DISCUSSION:

The original approval for the Home Depot/Walmart shopping center ("The Center") was originally approved in 1985 (then was Home Club/Costco). Over the years the operators have changed; the Home Depot had been known as Yardbirds prior to mid 2000 when it was purchased as part of a corporate acquisition.

When operated as Yardbirds, the company applied for and was granted a planning permit to expand their garden center, with a condition of approval that a portion of the vacant parcel to the east (1047 Arnold Drive) be leased for overflow parking, in the event they ever need it. This was in accordance with our municipal code to allow deferral of required parking where the exact need was not known. A one-acre vacant portion of the 1047 Arnold site was a reasonable site to lease given its only use was for pumpkins and Christmas trees during the holiday season. Yardbirds entered into a long-term lease with the property owner to lease the site for parking on an as needed basis. In addition, the parking area would only be improved if the city requested its improvement due to excess demand at the Walmart commercial shopping center. Demand for parking never exceeded supply and therefore the city has never requested improvement of the lot. When Home Depot acquired Yardbirds, they also acquired this deferred parking requirement.

Nine years have passed since the deferred parking was created, and there is interest in removing that condition to (1) relieve Home Depot of the condition of approval and associated cost to lease the property for parking spaces which have never been utilized; and (2) to make allow the development of the adjacent one acre vacant lot for phase 2 of the recently approved commercial center located at 1047 Arnold Drive.

The applicant began working with staff to consider the removal of the existing condition of approval requiring additional off site parking spaces. Staff requested that a parking study be undertaken and that the study show how the existing parking areas are currently being used, and how the parking demand is or can be met with the current parking configuration. The applicant provided staff with a parking study prepared by Abrams Associates, dated June 21, 2011. Abrams Associates surveyed the parking area from May 14, 2011 to May 20, 2011, reviewed required parking standards, and evaluated existing parking both on current code and industry standards for commercial "big box" centers. Staff has attached the study, related parking site maps and tables (Attachment #1). The study found that not only are the additional parking spaces not needed but that the center can function effectively with sufficient parking with a reduction of parking up to 107 spaces.

The Martinez Municipal Code requires 5 parking spaces per 1,000 square feet for retail stores. In this instance, staff reviewed the uses at the site and surveyed other parking codes in jurisdictions in close proximity to Martinez and found that commercial centers or "big box" centers that generally have a 4 parking spaces per 1,000 square feet. Since the Municipal Code does not currently define or list "big box" centers as a use, staff applied Section 22.36.070 (A) (11) where staff can determine the off-site parking requirements. Upon review of the parking study and the fact that the off site parking was never utilized and/or improved staff determined that removal of the additional spaces would have no impact on the existing parking supply.

Furthermore, the elimination of the adjacent parking will relieve Home Depot of the annual cost incurred for leasing an area that is and will not be used, and allows for the adjacent property to be fully developed as a commercial center.

RECOMMENDATION:

Approve the removal of required parking on the adjacent property. Remove conditions VIII A and B for Permit No. UP #02-14.

Attachments:

1. Parking Study prepared by Stephen Abrams, Abrams Associates dated June 21, 2011
2. Approvals from 2002, Staff report and Conditions of approval

F:Commdev/PLANN/Dina/jimtaylorhomedepot

June 21, 2011

Mr. Jim Taylor
The Center - Martinez
1037 Arnold Drive
Martinez, CA 94553

Re: Review of Parking Conditions for The Center - Martinez (Wal-Mart/Home Depot) at 1037 Arnold Drive

In response to your request we have prepared a review of the parking supply for the existing commercial property at 1037 Arnold Drive in the City of Martinez. The site includes 957 parking spaces for approximately 234,400 square feet of retail space. According to the City of Martinez Municipal Code (Section 22.36.050) this type of retail project would typically require 5 spaces per 1000 square feet of gross floor area, which would equate to 1,170 parking spaces. However, as discussed below, numerous surveys and references indicate that less than 4.0 spaces per 1000 square feet would normally be required for this type of shopping center.

Surveys of Existing Parking Conditions – From May 14 to May 20, 2011 AM and PM parking surveys were conducted to determine the peak parking demand at the shopping center during each of these periods. Figure 1 shows the parking study areas that were used for this analysis and Figure 2 shows the parking capacities for each subarea. Please note on Figure 2 that the surveys accounted for spaces that were semi-permanently occupied by dumpsters, shopping cart collection areas, etc. Tables 1 and 2 show the results of the surveys and Figures 3 through 9 also present the results. Please note that the 10 parking spaces on the Jiffy Lube property within the site were excluded from this analysis.

As expected, the highest demand at the shopping center occurred on a Saturday afternoon. At this time there were 446 vehicles in the parking lot. According to data from the Urban Land Institute, the parking demand in May is typically about 67% of the peak month (which is, of course, December).¹ When the maximum parking demand that resulted from the surveys in May are factored up to account for this seasonal variation, the result is an estimated maximum required parking supply of approximately 665 spaces. In addition, approximately 2,400 square feet of retail space was vacant during the surveys so after adjustments to account for that the estimated maximum required parking supply is 672 spaces. However, based on our experience with other shopping centers and the information referenced below, we would recommend that a minimum parking ratio of 3.5 spaces per 1000 square feet be maintained or 820 parking spaces.

City of Martinez Zoning - The number of spaces required for shopping centers by the City of Martinez Municipal Code is 5.0 spaces per 1,000 square feet. This is a relatively high requirement for a shopping center of this size, and is higher than is recommended by the Institute of Transportation Engineers (ITE) and other commonly accepted traffic engineering references.

¹ *Shared Parking, Second Edition*, Urban Land Institute, Washington D.C., 2005

It should be noted that 5.0 spaces per 1000 sq. ft. is also higher than what is used in many other cities in Contra Costa County. For example, Concord and Walnut Creek typically require parking ratios for shopping centers of 3.5 or 4.0 spaces per 1,000 square feet. It is important to note that the parking rate of 5.0 does not consider the fact that the individual businesses have different peak times of operation, and that some customers may visit more than one business in one trip. With multiple tenants the effects of shared parking will typically reduce the requirements by 30 percent or more.

Other References on Parking Generation – The ITE Parking Generation Manual provides detailed data on the peak parking requirements for shopping centers (ITE Land Use Code: 820) based on surveys of shopping centers throughout the U.S. and Canada.² This reference provides information on the overall average parking demand for a variety of land uses. However, retail uses in particular have significant seasonal variations so the higher 85th percentile demand is typically used for design to provide a higher confidence level in the parking supply being provided.

Based on the ITE fitted curve equations the 85th percentile demand used for design at a shopping center of this size on a typical weekday is about 2.7 vehicles per 1000 square feet. However, ITE also specifies that the peak demand on a Friday is 3.2 vehicles per 1000 sq. ft. and on a Saturday it is typically about 3.4 vehicles per 1000 sq. ft.

As an alternate calculation, we also determined the 85th percentile parking demand for the shopping center by adding up the results for the individual land uses (again, excluding the Jiffy Lube property). The parking demand of the various uses was estimated using the following ITE categories: Wal-Mart - *Free Standing Discount Store* (Land Use Code 815), Home Depot – *Home Improvement Superstore* (Land Use Code 862), and the standard rates for a shopping center (Land Use Code 820) were used for the remaining 12,000 square feet of general retail space. Because the rates for a Home Improvement Superstore were slightly higher than the shopping center rates the 85th Percentile demand ends up being 3.6 vehicles per 1000 square feet which would increase the requirement by 24 spaces. However, please note that this calculation does not include any consideration for shared parking between the various uses.

Recommendations – Based on our review of the proposed parking supply the City of Martinez should be able to make the findings to approve a variance for a reduced parking requirement on this property based on the standard references on parking generation. These documents indicate that 3.5 spaces per 1000 square feet, or about 820 parking spaces, should be provided for this 234,400 square foot shopping center. With 820 spaces the shopping center would exceed ITE's peak 85th percentile design demand of 3.5 spaces per 1000 square feet on a typical Saturday. These results have also been verified to be reasonable based on the parking surveys conducted for this analysis.

As noted previously, some of the parking spaces were found to be semi-permanently occupied by dumpsters and shopping cart collection areas during the surveys. While these could theoretically be made available we would recommend these spaces be taken into account in any parking

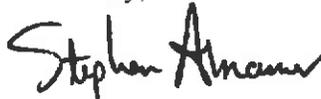
² *Parking Generation, 4th Edition*, Institute of Transportation Engineers, Washington D.C., 2010.

calculations. Since there were approximately 30 spaces that were not available for vehicle parking we would recommend increasing the parking requirement by this amount to 850 vehicles. Based on a parking ratio of 3.5 per 1,000 (and consideration for the spaces that are currently unavailable to patrons) it appears that a reduction in the shopping center's parking supply of up to 107 parking spaces would be reasonable.

In summary, the recent parking surveys provide additional evidence that with a reduction of up to 107 spaces there would be no significant impacts on surrounding properties or to on-street parking in the area (which is prohibited on Arnold Drive in the immediate vicinity of the project).

Please don't hesitate to contact me if you have any questions.

Sincerely,



Stephen C. Abrams
President, Abrams Associates
T.E. License No. 1852

TABLE 1
PARKING STUDY RESULTS

Area	Parking Capacity	5/14/11		5/15/11		5/16/11		5/17/11		5/18/11		5/19/11		5/20/11	
		AM	PM												
1	109	58	78	48	48	48	82	56	45	48	44	41	54	58	68
2	308	188	216	204	182	182	198	206	180	156	172	151	173	162	185
3	177	84	90	78	82	82	68	75	70	68	72	82	68	66	70
4	138	0	0	0	2	2	0	0	0	0	0	0	0	0	0
5	225	80	62	60	66	66	74	62	58	56	68	62	62	68	70
Total:	957	410	446	390	380	380	422	399	353	328	356	336	357	354	393

TABLE 2

Area	Semi-Permanently Occupied Spaces
1	4
2	14
3	8
4	2
5	2
Total:	30



= Study Area

FIGURE 1 | PARKING STUDY AREAS
PARKING STUDY
The Center-Martinez
City of Martinez

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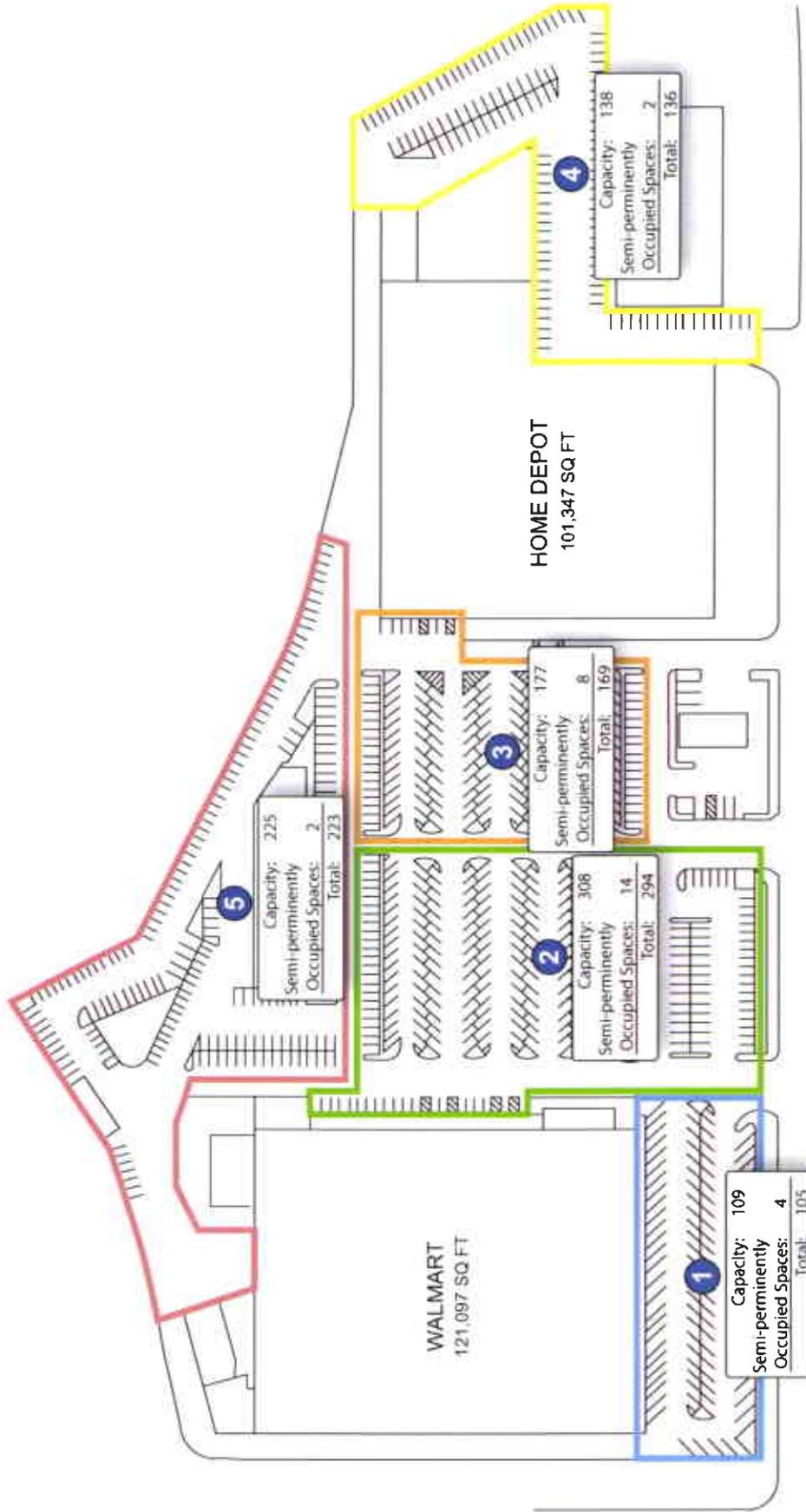


FIGURE 2 | PARKING CAPACITIES
PARKING STUDY
The Center-Martinez
City of Martinez



FIGURE 3 | AM (PM) PARKING COUNT SUMMARY - MAY 14, 2011
PARKING STUDY
The Center-Martinez
City of Martinez

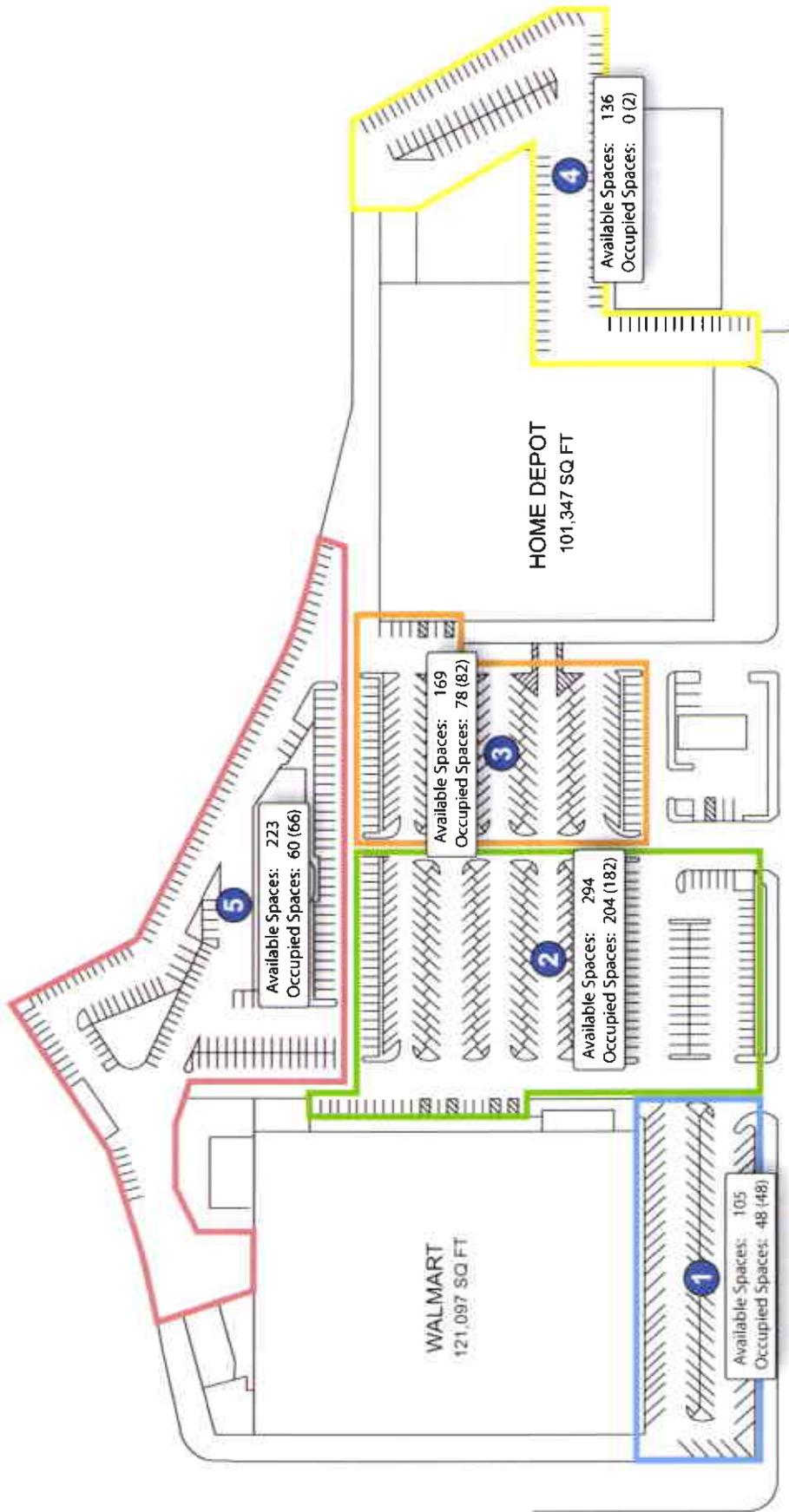


FIGURE 4 | AM (PM) PARKING COUNT SUMMARY - MAY 15, 2011
PARKING STUDY

The Center-Martinez
 City of Martinez

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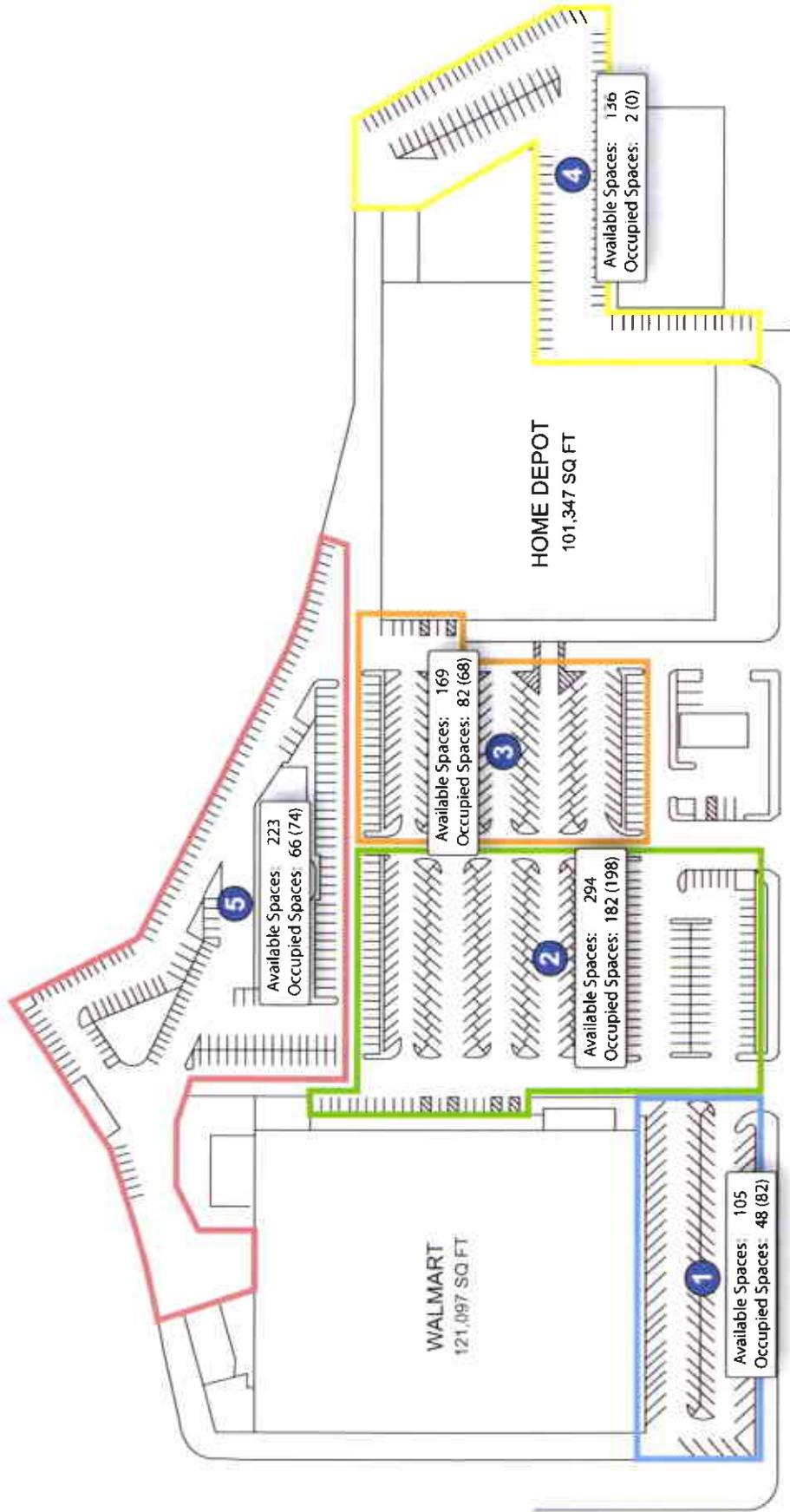


FIGURE 5 | AM (PM) PARKING COUNT SUMMARY - MAY 16, 2011
PARKING STUDY

The Center-Martinez
City of Martinez

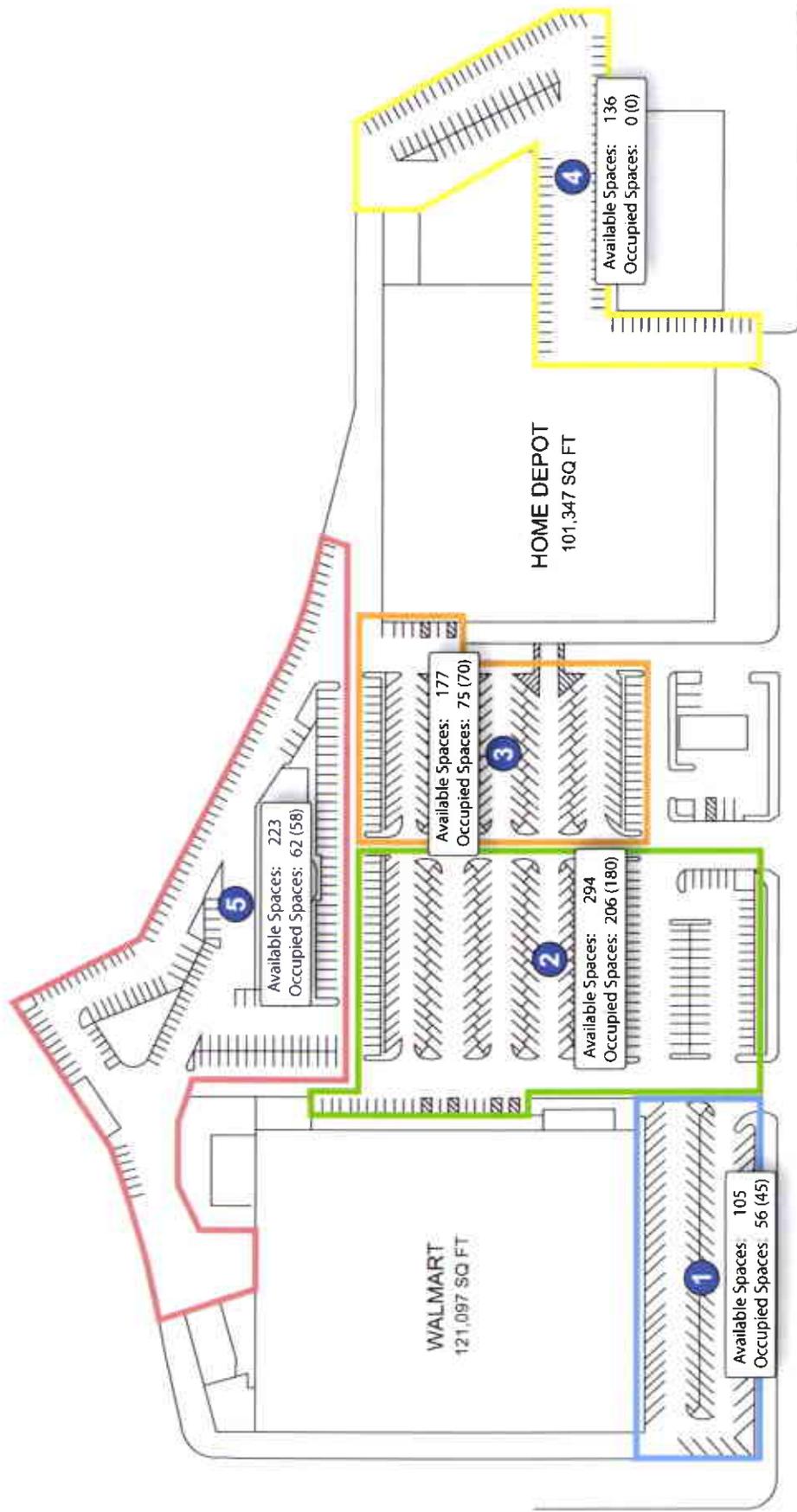


FIGURE 6 | AM (PM) PARKING COUNT SUMMARY - MAY 17, 2011
PARKING STUDY
The Center-Martinez
City of Martinez

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FIGURE 7 | AM (PM) PARKING COUNT SUMMARY - MAY 18, 2011
PARKING STUDY
The Center-Martinez
City of Martinez

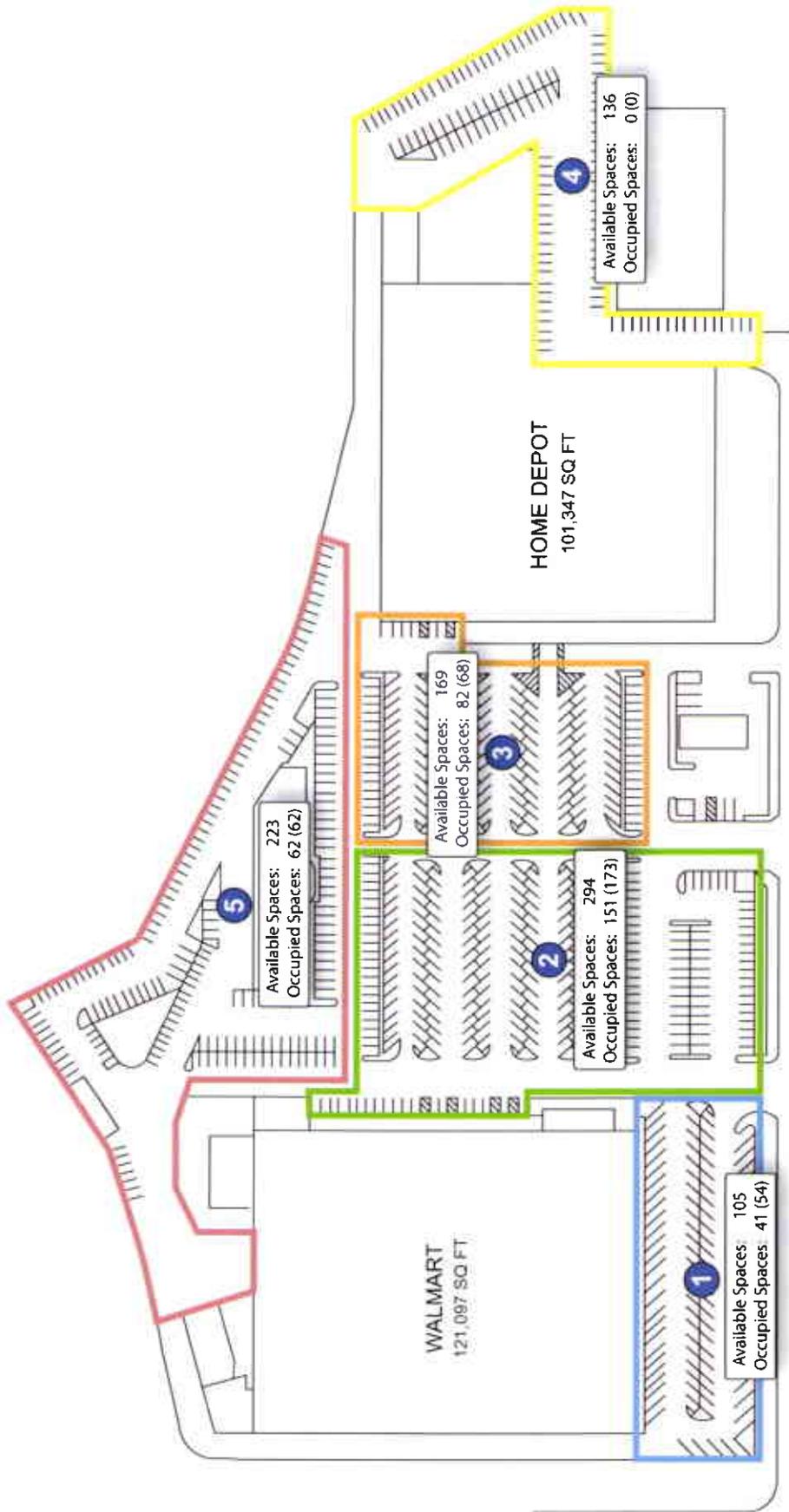


FIGURE 8 | AM (PM) PARKING COUNT SUMMARY - MAY 19, 2011
PARKING STUDY
The Center-Martinez
City of Martinez



FIGURE 9 | AM (PM) PARKING COUNT SUMMARY - MAY 20, 2011
PARKING STUDY

The Center-Martinez
City of Martinez

JUNE 2002

RESOLUTION NO. PC 02-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARTINEZ MAKING FINDINGS FOR THE APPROVING OF USE PERMIT #02-14, VARIANCE #02-14 , DESIGN REVIEW #02-18, AND AUTHORIZATION TO ALLOW THE DEFERRAL OF PARKING FOR THE INTERIOR AND EXTERIOR REMODEL OF AN EXISTING BUILDING AT 1037 ARNOLD FOR USE AS A YARDBIRDS HOME IMPROVEMENT CENTER; AND

WHEREAS, pursuant to Martinez Municipal Code Sections 22.40 Conditional Uses - Use permits, 22.44 Variances, and 22.36.210 Deferred Parking Requirements , Yardbirds Home Center applied for Use Permit #02-14 to construct two 48 foot tower elements where 30 foot height maximum is permitted, Variance #02-14 for elimination of the five yard front yard setback to accommodate the proposed garden center expansion, Design Review #02-18 to remodel and expand an existing building at 1037 Arnold Drive; and

WHEREAS, the proposal is consistent with General Plan policies and with the land use designation which is Commercial; and

WHEREAS, the zoning applicable to the property is Commercial and Research and Development, the home improvement center is a permitted use; and

WHEREAS, the project is categorically exempt from the requirements of California Environmental Quality Act Section 15301 (e) Existing Facilities; and

WHEREAS, the Planning Commission of Martinez held a duly noticed public hearing on the variance, use permit and design review on June 11, 2002, and listened to testimony from the public.

NOW, THEREFORE, the Planning Commission of the City of Martinez resolves as follows:

- A. The above recitals are found to be true and constitute part of the findings upon which this resolution is based.
- B. In order to approve the Use Permit application, the Commission must make the following findings, which it hereby does:
 - 1. **The proposed location of the conditional use is in accord with the objectives of this title, and the purposes of the district in which the site is located.** The proposed home improvement store is appropriate since the applicant proposes utilizing an existing building within a commercial district and existing commercial shopping center. Furthermore, the building was previously used as a

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home improvement center.

2. **The proposed location of the towers and their use will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** Construction of two towers which will exceed the permitted 30 foot maximum height limits will not be detrimental since the towers are to be located on portions of the building that faces the existing shopping center and Arnold Drive. The towers are architectural elements only. There will be no impact on existing residential neighborhood to the east and northeast of the existing shopping
 3. **The proposed conditional use will comply with each of the applicable provisions of this title.** The proposed construction of the towers in excess of the maximum height limitation as part of the remodel of the proposed home improvement center complies with the provisions of the commercial district.
- C. In order to approve the Variance application, the Commission must make the following findings, which it hereby does:
1. **Strict or literal interpretation of the required front yard setback would result in unnecessary physical hardship for the applicant.** Strict or literal interpretation of the front yard setback parking requirement would prohibit the applicant from benefitting fully from use of the existing building. Yardbirds places great emphasis on its ability to sell a wide range of plant materials and garden supplies. In order to maintain this niche in the marketplace the expansion is an essential part of the development. In addition, the applicant is proposing to expand an existing building where there previously was a garden center. This is the only location suitable for the expansion of the garden center.
 2. **Exceptional or extraordinary circumstances or conditions are applicable to the property.** The site is already fully developed. The proposed building was previously used as a home improvement center. It would not be possible to construct another building in the existing area without demolishing the existing structure. Instead the applicant proposes utilizing the existing building and center thereby limiting impact.
 3. **Strict or literal interpretation of the landscape and parking requirements would deprive the applicant of privileges enjoyed by the owners of other properties.** Strict or literal interpretation of the setback requirements would prevent the applicant from developing the lot in a manner that is substantially consistent with the City's regulations and the manner in which the existing commercial center has been developed.
 4. **The granting of the variance will not constitute a grant of special privileges**

inconsistent with the limitations on other properties classified in the same zoning district. The granting of the variance is consistent with the City's regulations related to variances which are applicable to other properties in the same zoning district.

5. **The granting of the variance will not be detrimental to the public health or be materially injurious to properties or improvements in the vicinity.** The proposed reduction in the required front yard setback will not effect the neighboring properties, because the variance provides for a more efficient use of the property and the site has already been used as a home improvement site. The additional square footage for a larger garden center will only provide greater commercial space and a more attractive facade along Arnold Drive.

C. In order to approve the Design Review application, the Commission must make the following findings, which it hereby does:

1. **The proposed design and use complies with all other applicable provisions involving the physical development of buildings, structures and property, including use restrictions.** The design and use of the site complies with all other applicable regulations including provisions under variance and conditional use permit entitlements.
2. **The design provides desirable surroundings for occupants as well as for neighbors. Emphasis is placed upon exterior design with regard to height, bulk, and area openings; breaks in the facade facing on a public or private street; line and pitch of the roof; and arrangement of structures on the parcel.** The design is appropriate in that it is articulated in a manner that reduces the appearance of bulk; provides a contemporary design that will improve the overall appearance of the area. In addition, the proposed garden bedding area in front of the store, added windows and tower elements will make the center more attractive and desirable for customers.
3. **The design has a harmonious relationship with existing and proposed neighboring development.** Many elements of the proposed design including massing, bulk, colors and materials are harmonious with the existing commercial center. The overall design is unique, and will improve the commercial center's overall appearance immensely.
4. **A limited palette of exterior colors is used; those colors must be harmonious and architecturally compatible with their surrounding environment.** The materials and color is consistent with the color characteristics of the immediate area.
5. **A limited number of materials is used on the exterior of the project.** The

limited number and type of materials make for an interesting and clean design.

6. **Utility boxes are under-grounded or screened from the view of the general public.** No utility boxes are proposed.
7. **Eighteen trees, 8 inches or greater, will be removed. The type and location of trees are selected with respect to the preservation of specimen and landmark trees and water conservation.** No significant trees will be impacted as part of the proposal. The proposed landscape plan utilizes native plants and will have a drip irrigation system to maximize water conservation.
8. **The circulation plan is designed to maximizes pedestrian and vehicular safety and convenience.** The design maximizes pedestrian activity and will have a positive impact on the center as a whole.
9. **Views are substantially preserved from nearby properties without severe or undue restrictions being placed on the site.** No off-site views will be adversely affected by the design.

D. In order to authorize deferral of required parking the Planning Commission must find the following, which it hereby does:

1. **The expected need for off street parking is uncertain, due to unknown or unusual operating characteristics of the use and unavailability of comparable data to establish need.** The center is currently developed with a Wal mart and other smaller businesses. Prior to Wal Mart's remodel of an existing vacant building at the site, a traffic study was conducted. The traffic study indicated that the shopping center was underutilized. The project includes a reduction of 40 parking spaces.

The applicant will be required to provide a deferred parking area during the entire length of the lease for the building. . Since the commercial center is currently operating with sufficient spaces and the applicant proposes requiring employees to park in the rear of the building, there should be enough parking. If after a year of operation or previous to that if the parking condition worsens, and there is evidence in the form of a traffic study that additional parking is necessary, the leased parking area will have to be improved with the required parking spaces. Because it is not known what parking demand will be at the site and there is currently excess parking at the site, the applicant has agreed to secure the adjacent parking deferral of parking to be improved when deemed necessary.

E. All the findings contained above are part and parcel of this Resolution and are incorporated herein by this reference.

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NOW, BE IT FURTHER RESOLVED that the Planning Commission approves Use Permit 02-14, Variance #02-14 and Design Review #02-18, for remodel of the interior and exterior for the existing commercial building located at 1037 Arnold Drive subject to the attached conditions of approval, incorporated herein by this reference.

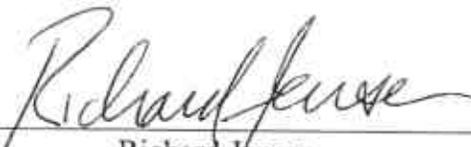
* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 11th day of June 2002, by the following vote:

AYES:

NOES:

ABSENT:

BY: 
Richard Jensen
Planning Commission Chair


Dina Tasini, Deputy Director(Comm.Dev)

f:\community development\all projects\non-res-commercial\yardbirds\yardbirdsreso

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TO: PLANNING COMMISSION

FROM: Dina Tasini, Deputy Community and Economic Development Director *DT*

GENERAL INFORMATION

Applicant,

Owner: Yardbirds Home Center

Location: 1037 Arnold Drive

Requested

Approvals: The applicant requests an approval as follows:

- Design review for the proposed exterior modifications and signage; and
- Use Permit to construction of tower elements with a height of 48 feet where 30 feet maximum is permitted; and
- Front yard variance to allow expansion of the proposed garden center into the required five foot setback, reducing the setback to zero.
- Authorize the deferral of parking.

RECOMMENDATION

Approve Design Review 02-18, Use Permit 02-14 , Variance 02-14 and authorize the deferral of parking with a yearly review by staff to determine additional parking needs at the site.

PROJECT SUMMARY

The applicant proposes to remodel both the interior and exterior of the building. The exterior remodel of the building includes a pedestrian friendly front entrance, where the bedding plant marketplace will be located. The remodel extends the entire length of the front facade and south along Arnold Drive. Two new towers measuring 48 feet are proposed. The proposed tower elements serve as a transition carrying the architecture around the building as well as an ideal location for signage. The additional height of these towers is necessary for visibility from Arnold Drive and Highway 4 and also adds some interest to the building.

Yardbirds places great emphasis on their garden center and on quality landscaping products. Because of this emphasis it is necessary for the applicant to expand the existing garden center area. The applicant proposes enclosing the garden center with a new wall with metal lattice and decorative pilasters at the front and a top row of the Garden Center. Vines will be planted on the

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lower section of the wall. Reduction of the front yard setback will have some impact on pedestrian activity along Arnold Drive by narrowing the existing area between the curb and the walkway. Currently, it does not appear that pedestrian activity is especially heavy along Arnold Drive. The only time there may be an increase in traffic is if Yardbirds becomes incredibly successful. At that time staff will reevaluate the project, probably require the introduction and improvement of the deferred parking area and require the applicant to provide an entrance to the garden center from Arnold Drive.

The project also includes an initial reduction of 40 parking spaces. However a 25,800 square foot portion of the "KLima" site to the east along Arnold Drive will be leased by Yardbirds to provide for deferred parking in accordance with Municipal Code Section 22.36.210. This lease will coincide with the lease for the store and is expected to be signed shortly. The traffic study for Wal Mart indicated that the existing parking lot was not completely utilized. The request is defer approximately 12% of the parking. The deferred parking area includes additional parking spaces for the garden center and replacement parking. Staff will work with the applicant to reassess the parking demand within one year of the business beginning operation. If the traffic study or review reveals that there exists a need for additional parking spaces then the applicant will be required to improve the leased area and provide proper walkways and access to the site.

DESIGN REVIEW

The applicant presented the project to the Design Review Committee on May 22, 2002. The Design Review Committee felt that it was an excellent design and in particular the site plan was well done. They had some concern about loading of materials and suggested that loading should take place on the North side of the building. In addition some of the architectural elements should be carried over into the parking lot such as the wall design.

ENVIRONMENTAL REVIEW

The project is Categorical Exempt pursuant to Subsection 15301(e) Existing Facilities of the California Environmental Quality Act. No further environmental review is required.

Attachments:

Design Review Committee comments dated May 22, 2002

F:\Community Develop\All Projects\Non-residential-Commercial\yardbirds.wpd



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3515

FAX (925) 372-0257

June 12, 2002

Norm Dyer
Loving & Campos Architects
245 Ygnacio Valley Road, Suite 200
Walnut Creek, CA 94596

SUBJECT: APPROVAL OF VARIANCE #02-14, USE PERMIT #02-14 AND DESIGN REVIEW #02-18 / 1037 ARNOLD DRIVE

Dear Mr. Dyer:

At its meeting on Tuesday, June 11, 2002, the Martinez Planning Commission approved your request for design review for the proposed exterior modification, a use permit to increase the height of the tower elements to 48 feet and a variance to permit the expansion of the garden center into the required five foot front yard setback to be located at 1037 Arnold Drive in Martinez. The Conditions of Approval are attached.

This decision may be appealed to the City Council by yourself or any interested person. There is a 10-day appeal period which ends on Friday, June 21, 2002.

You may proceed in applying for your building permit after the appeal period has expired. For more information on obtaining a building permit, please contact Jeff Taylor, Building Permit Technician, at 372-3550.

Sincerely,

Dina Tasini

Deputy Director of Community/Economic Development

Attachment

cc: Jeff Taylor, Building Permit Technician
Chris McClellon, Construction Inspection Dept.
File copy ✓
Chron

CONDITIONS OF APPROVAL

APPROVED BY PLANNING COMMISSION

Project Name: Yardbirds Home Center

Location: 1037 Arnold Drive

I. Description of Permit

- A. These conditions apply to and constitute the approval of Use Permit 02-14, Variance 02-14 and Design Review 02-18 to permit the interior and exterior remodel of an existing building with the following permit approvals: Use Permit to construct two towers measuring 48 feet when 30 feet maximum in height is permitted; Variance for expansion of the building into the required five foot yard setback; Design Review for exterior modifications, signage and Deferral of Required Parking.
- B. Unless a shorter status of limitations applies, any judicial review of the decisions described herein must be brought pursuant to California Code of Civil Procedure Section 1094.6.
- C. Note the conditions listed below which are valid relating to appeals, City Council approval, approval expiration, and requirements for applying for time extensions.

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

		Dated	Prepared by	No. of Pages
A.	Plans submitted	<u>4-10-02</u>	<u>Loving&Campos Architects</u>	<u>13</u>
B.	Revised site plan	<u>4-23-02</u>	<u>Loving & Campos Architects</u>	<u>1</u>

All construction plans shall conform to these exhibits. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Building Division or Engineering Division as noted.

III. Landscaping

- A. Preliminary landscape plans have been submitted and the Design Review Committee found them to be acceptable. Landscape plans shall conform to Page L-1 of the plans submitted by Loving & Campos Architects dated April 10, 2002, prepared by Rose Associates, Landscape Architects dated 4/5/02.

1. Landscape plan is to be prepared in accordance with the City's adopted water conservation and landscaping ordinance. Use primarily drought resistant plants.
 2. Protect planting areas adjacent to streets, driveways or parking areas with minimum 6" high concrete curbs or equivalent.
 5. Shrubs shall be 5 gal. size and drought tolerant.
 6. All fencing, retaining walls, barriers, etc., shall be installed by the developer, and shall be shown on the site and landscape plan.
 7. The maximum height for all walls, fences and/or fences on retaining walls shall be 6 feet. Fences off-set from retaining walls a minimum of 18 inches or greater shall be considered separate structures with a maximum height of 6 foot each.
- B. The satisfactory installation of all landscape and irrigation improvements shall be guaranteed by posting a bond or equivalent surety with the City equal to 100 percent of the cost of materials and installation prior to issuance of building permits.
- C. Installation of the landscaping and all related improvements shall be inspected by a registered landscape architect and certified in writing as being in compliance with the approved plan prior to release of bond.
- D. Additionally, the satisfactory establishment of plant materials shall be guaranteed for a period of two years after acceptance of installation. A guarantee bond shall be in an amount equal to 10 percent of the value of the improvements and shall be released upon inspection and acceptance of landscape improvements by a registered landscape architect.
- IV. Noise Control, Dust and Conditions for Construction Activity
- A. All construction activities shall be restricted to Monday - Friday and to the hours of 7:00 a.m. to 7:00 p.m. Work on weekends is permitted between the hours of 9:00a.m. to 5 p.m.. Operation of machinery and construction equipment at the site must comply with the City of Martinez Noise Ordinance. The permittee shall post a sign on the site notifying all workers of this restriction.
 - B. No equipment shall be started or delineation take place on the streets before or after the specified operations hours.

- C. Adequate dust control measures shall be employed throughout all grading and construction periods. The Contractor shall regularly water areas that are exposed for extended periods to reduce wind erosion.
- D. Contractor shall ensure that surrounding streets stay free and clear of silt, dirt, dust, tracked mud, etc. coming in from or in any way related to project construction. Paved areas and access roads shall be swept on a regular basis. All trucks to be covered.
- E. Speeds of construction equipment shall be limited to 10 miles per hour. This includes equipment traveling on local streets to and from the site.
- G. There shall be no parking of construction equipment or construction worker's cars on residential streets at any time.
- I. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Developer shall be responsible for the repair of any damage to city streets (private and public) caused by the import or export of soils materials necessary for the project.
- J. Prior to construction, contractor shall contact city inspector for a pre-construction meeting.
- K. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.

V. Agreements, Fees and Bonds

- A. All improvement agreements required in connection with said plans shall be submitted to and approved by City and other agencies having jurisdiction prior to City approval and issuance of the Building, Grading, or Site Development Permit, whichever comes first..
- B. A Traffic Mitigation Fee is required to fund City-wide traffic related improvements. The final fee shall be based on quantities from final approved plans in accordance with the fee schedule in effect at time of payment.
- C. A Park Dedication fee is required to fund City-wide park related improvements. The final fee shall be based on quantities from final approved plans in accordance with the fee schedule in effect at time of payment.
- E. A Drainage Mitigation Fee is required to fund drainage related improvements. The final fee shall be based on quantities from final approved plans in accordance with the fee schedule in effect at time of payment.

- F. A Child Care Fee is required to fund City-wide child care related improvements. The final fee shall be in accordance with the fee schedule in effect at time of payment.
- G. All fees and deposits required by City and other agencies having jurisdiction shall be paid prior to City approval of the Final Map or issuance of the Building Permit, whichever comes first.

VI. NPDES Requirements

- A. Trash enclosures and dumpster areas shall be covered and protected from roof and surface drainage.
- B. All areas used for washing, steam cleaning, maintenance, repair or processing shall have impermeable surfaces and containment berms, roof covers, recycled water wash facilities, and shall discharge into the sanitary sewer, as approved by the City Engineer.
- C. Efficient irrigation, appropriate landscape design and proper maintenance shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.
- D. To the maximum extent practicable, as determined by the City Engineer, drainage from paved surfaces shall be routed through grassy swales, buffer strips or sand filters prior to discharge into the storm drain system.
- E. A parking lot sweeping program, as approved by the City Engineer, shall be implemented which at a minimum, provides for sweeping immediately prior to, and once during, the storm season.
- F. All storm drain inlets (catch basins) shall be imprinted with the sign "No Dumping, Flows to Creek" as per City Standard #SD-1.
- G. Development shall include adequate accessible and convenient areas for collecting and loading recyclable materials, to the satisfaction of the City Engineer, in conformance with the California Integrated Waste Management Board Recycling Ordinance.

VII. Street Improvements

- A. Broken curb and gutter, sidewalk and/or driveway approaches shall be replaced as determined by an inspection from the City Engineer's office.
- B. All streets shall be paved and improved after utilities are installed in accordance with City of Martinez Standard Drawings and Design Guidelines.

VIII. Other Requirements

- A. The applicant shall provide a copy of the lease agreement between the applicant and the adjacent property owner for the deferred parking area.
- B. The applicant shall agree to a review of parking conditions within nine (9) months of opening for business . After the initial 9 month review the applicant shall submit a yearly parking study to staff for review. Improvement of the deferred parking area may be required as a result of additional traffic demand.
- C. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.
- E. Design of all public improvements shall conform to the City of Martinez Design Guidelines, Standard Special Provisions, and Standard Drawings.

IX. Validity of Permit and Approval

- A. Planning Commission approval is subject to appeal to the City Council within ten calendar days of the approval.
- B. The permit and approval shall expire in one year from the date on which they became effective (unless extended under C) unless a building permit is obtained and construction begun within the one year time period. The effective date of the permit and approval is June 11, 2002.
- C. The time extension of the expiration date, June 11, 2003, of a permit or approval can be considered if an application with required fee is filed at least 45 days before the original expiration date. (Otherwise a new application is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors are permitted to be considered under the law, may require or permit denial.
- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The permittee, Yardbirds shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the City Council's [or Planning Commission's] decision to approve Variance 01-26 and Design Review 01-49, and any environmental document approved in connection therewith. This

indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by Yardbirds, the City, and/or the parties initiating or bringing such action.

- F. Yardbirds shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if Yardbirds desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
- G. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify Yardbirds of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that Yardbirds is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with Yardbirds in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where Yardbirds has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- H. Yardbirds shall indemnify the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- I. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

follows:

- Section 6 – amend condition to restrict in accordance to the City’s noise ordinance,
- Section 8 – Grading – condition to actual grading elevation rather than the pad,
- Section 9 - hydrological study should be prepared by a licensed engineer qualified in hydrological and submitted to city engineer,
- Remove K,
- Add a notice shall be given to all neighbors on the streets of the parking of any major construction vehicle that would impede traffic 48 hours in advance,
- No employee vehicles shall be parked on the street, they will be car –pooled, and
- Remove requirement for sidewalk.
- Special emphasis on the drainage plan issues.

2. YardBirds Home Center

VAR #02-14, DR #02-18

Public hearing on a proposed project consisting of the reuse and interior/exterior remodel of 1037 Arnold Drive (former House2 Home site). The applicant, Yardbird's Home Center, has applied for design review for the proposed exterior modifications, a use permit to increase the height of the tower elements to 48 feet where a maximum of 30 feet is permitted and signage. In addition, the applicant has applied for a front yard variance to permit the expansion of the garden center into the required five foot front yard setback. The project also includes an initial reduction of 40 parking spaces, however, a portion of the parcel directly to the east will be leased by Yardbirds in accordance with Municipal Code Section 22.36.210 (Deferral of Required Parking), to provide parking if deemed necessary to be located at 1037 Arnold Drive.

Applicant: Loving & Campos Architects, Inc.

(DT)

Ms. Tasini noted the Planning Commission had received a revised conditions of approval which were made by the Applicant prior to the meeting. She had also received a booklet for the project. She said she wished every applicant had such professional presentations.

Ms. Tasini explained the applicant proposed a modification including tower elements which required a use permit because they exceed the City’s maximum height requirements. The signage will be included on the tower. There was also a variance request for the garden center, to enlarge the center along Arnold Drive. She noted that pedestrian traffic in this area was not a major concern so the addition will leave little or no impact. Referencing parking ratios, she explained the City code allows requesting deferred parking. The applicant can reserve an adjacent property for possible future parking. Ms. Tasini noted the Design Review Committee felt the project was professional and a good addition to the site. Staff recommends approval, with staff conducting annual reviews of the parking situation.

OPEN PUBLIC HEARING

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GORDON GRIFFIN, controller Yardbirds, explained this was a family operated business. They will be investing over \$2 million to make this facility customer friendly. This will be the 11th store and the second superstore. They believe it will be a regional center.

JERRY LOVING, architect, presented an area view of the site plan including the reserved parking area, noting they have a lease of the property. He explained they will remove parking at the face of the building, the garden center will be expanded toward Arnold Drive and they will spruce up the landscape. He provided design drawings indicating the landscape and towers and an artist rendering of the corner view stating it appeared like a marketplace. He said this facility will have a higher parking ratio than their other stores.

Mr. Loving requested Condition #4 be amended to follow the noise ordinance. He stated they have begun demolitions. Referencing fees, he asked that they only apply to the new portion of the building.

Commissioner Van Arsdale asked how much higher the tower would be above the existing building and Ms. Tasini responded about 18 feet.

Chairman Jensen said he was pleased with the architectural design.

Commissioner Burt stated it would be a fine addition to the community but was concerned about the parking. She remembered when Costco and Home Base were there, the parking was a concern. She suggested the parking be revisited in six months from occupancy rather than one year.

Mr. Loving explained he would prefer a year review to allow consideration of all seasons, noting WalMart may have a peak season during the holidays. He explained that if additional parking was needed the employees will park behind the building

DANA BUTCHER, 1690 N. Shaw, #200, Fresno, manager the shopping center, explained the CC&R's could prohibit employees and tenants from parking in the lot and restrict to the back of the building. Costco had forced their employees to park against the wall. Currently WalMart does not because the delivery trucks need the turn area. However the area behind the WalMart will be widened and employee parking will be moved to the back. This will increase parking by 200 stall for employees. He believed the parking would be more than adequate.

Commissioner Jensen complimented the private redevelopment in the City, stating this was a great addition and he looking forward to the opening.

CLOSED PUBLIC HEARING.

Commissioner Hughes said he was pleased with the project and would welcome it.

Commissioner Van Arsdale concurred.

Commissioner Bolen clarified with staff that there will be no construction on Sundays.

Commissioner Van Arsdale clarified with staff that the fees were only on the new portions of the building.

MOTION:

On motion by Commissioner Bolen, seconded by Commissioner Wilson, the Commission unanimously approved VAR #02-14 and DR #02-18 with an amendment to the conditions that the building hours follow those allowed in the noise ordinance.

COMMUNICATION:

None

COMMISSION ITEMS:

Following up from discussion during the Special Meeting with the Design Review Committee, Ms. Tasini asked how the Commissioners plan to rotate representation at the Committee meetings.

Commissioner Jensen suggested rotating Commission representatives at City Council meetings and Design Review meetings.

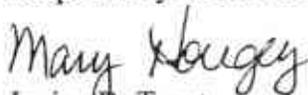
Ms. Tasini suggested the representation on particular issues of concern only. Commissioner Jensen suggested issues such as drainage issues, public safety, etc.

Commissioner Bolen said there was car repair and people working in the new Nader Chrysler building. Commissioner Jensen stated the sandwich sign was still visible. Ms. Tasini said staff was working on its removal.

ADJOURNMENT:

There being no further business at 9:31 p.m. The next Planning Commission meeting will be June 25, 2002 at 7:20 p.m.

Respectfully submitted

for 
Janice B. Trout
Minutes Clerk

Approved by the Planning Commission


Chair
Richard Jensen

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Jerome R. Klima
ABC Tree Farms
2464 El Camino Real # 934
Santa Clara, CA 95051

Fax To: City of Martinez Planning Department,
Attn: Dina Tasini, Deputy Director of Community Development
Fax Number: 925 372 0257 Phone Number: 925 372 3534
229 5012

Fax From: ABC Tree Farms/Jerry Klima
Fax Number: 503-916-1776 Phone Number: 503-916-1754
Mobile Number: 503 975 8733

Date: August 23 2002
Pages: 4 pages including cover page

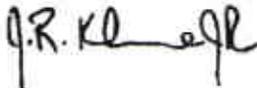
RE: Lease between Klima and Yardbirds for parking spaces located @ 1047 Arnold Dr., Martinez, CA.

Dina,

I wanted to let you know that I have agreed to lease a portion of the property @ 1047 Arnold Dr. in Martinez, California to Yardbirds Home Center for parking spaces. Following is the copy of the agreement; it is a binding agreement. (You will find two copies of the lease agreement as the second copy has changes increasing the amount of parking spaces to Yardbirds.) We are currently in the middle of having our attorney finalize the draft on the agreement. I will be happy to supply you with a lease verification page or a signature page on the lease agreement if you require it.

You may reach me via cell phone @ 503 975 8733 or fax @ 503 916 1776 if I can be of further assistance to you.

Thank you,



Jerry Klima
ABC Tree Farms

TRINITY DEVELOPMENT COMPANY
12387 Alta Sierra Dr.
Grass Valley, CA 95949
(530) 272-4544 Fax (530) 272-4744

May 21, 2002

Mr. Jerry Klima
PMB 367
25 NW 23rd St., Suite 6
Portland, OR 97210

Re: Changes to Agreement to Lease with Yardbirds

Dear Jerry:

Pursuant to our agreement on the telephone, please incorporate the following changes in the Agreement:

1. Rent increases to \$4,000.
2. Land increases to park up to ⁶⁸ cars (65 as shown on plan plus ³ potential reserve).
3. An agreement to give Yardbirds the first right of refusal to purchase the property. This is not meant to be structured so as to restrict your ability to market the property, but to insure that they have the first shot at purchasing at the price and terms you are looking for. The agreement would be on a good faith basis such that if Yardbirds cannot agree to your price and terms, and no one else in the market does, you would talk to Yardbirds again before going to the open market with substantially reduced terms.

Please call with any questions. If none, please proceed with a draft of the agreement and we will work together to consummate the lease.

Sincerely,

Kevin Ring

Cc: Gordon Griffin, Yardbirds

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TRINITY DEVELOPMENT COMPANY

12387 Alta Sierra Dr.
Grass Valley, CA 95949
(530) 272-4544 Fax (530) 272-4744

March 21, 2002

Mr. Jerome R. Klima, Jr.
PMB 367
25 NW 23rd St., Suite 6
Portland, OR 97210

Re: Agreement to lease

Dear Jerry,

This letter is to confirm our agreement to have Yardbirds lease land on your parcel adjacent to the old Home Base store in Martinez, Calif., when they open for business in this location. The amount of land will be whatever is sufficient to park 53 cars. The general terms of the agreement are as follows:

Use: Yardbirds may use the leased property to park cars for patrons and employees and for short term storage of shipping storage containers, not to exceed a total of sixty days per year and only as allowed by the City of Martinez. It is mutually understood that the purpose of the lease is to provide additional parking spaces for Yardbirds so they may expand the square footage of their adjacent store. Use of the property will be limited to these uses only, and only as allowed by the City of Martinez. Any other uses of the property must be agreed to in writing by the Landlord prior to making application to the City of Martinez for that use, and Landlord can decline to approve any other uses in his sole discretion.

Terms: 7 years, plus 4-five-year options (to coincide with the existing building lease).

Rent: \$3,000.00 per month total rent. Rental rate will be increased every three years, and using the year of 2003 as a Consumer Price Index base period, the future three year period rental rate per month shall be deemed to be a rate equal to the base rate of \$3,000.00 plus the total percentage increase in the Consumer Price Index for the years since 2003 multiplied by the base rental rate. However, in no event shall the rent decrease if there is a decline in the CPI. Taxes and any other expenses shall be Landlord's responsibility.

Improvements: Yardbirds to pave, install signs, mark and landscape the area required for their parking to City of Martinez Standards, or pay the pro-rata share of a larger paving job if Landlord decides to pave a larger portion of the property than required by Yardbirds. All costs of the Yardbirds uses to be paid solely at their expense. City of Martinez application, plans and approvals, or pro rata share of a larger job as mentioned above, to be advanced and paid by Yardbird's.

City Approvals: Both parties agree to work together with the City of Martinez to come up with a mutually agreeable plan that is acceptable to both parties. Landlord will initiate the dealings with the City of Martinez.

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