



STAFF REPORT

TO: PLANNING COMMISSION

PREPARED BY: Corey Simon, Senior Planner

GENERAL INFORMATION

APPLICANT: Johnson Lyman Architects; Dave Johnson

PROPERTY OWNER: Francis Plaza LLC; Stephen C. Francis

LOCATION: 1124 Arnold Drive

PROPOSAL: Construction of new two-building commercial development, with an approximate 8,000 sq. ft. commercial-retail (ground floor) and medical office (second floor) building, and a freestanding Taco Bell restaurant (with Drive-thru) requiring: a) Use Permit to allow a drive thru facility and a maximum 44' building height, where a maximum of 30' is normally permitted, and sign program including monument signage over 20 square feet in size and signs on the rear wall (Highway 4 elevation); b) Variances to permit less than the minimum required 15' rear yard and reduced parking lot dimension/loading bay requirements; and c) a 2-Lot Tentative Parcel Map; and d) Design Review approval.

GENERAL PLAN: Commercial (John Muir Parkway Specific Area Plan)

ZONING: NC (Neighborhood Commercial)

ENVIRONMENTAL REVIEW: Staff proposes that the Planning Commission find this project to be categorically exempt (Class 32; "In-Fill Development") pursuant to the requirements of CEQA. If the Planning Commission adopts this proposed finding, no further environmental review would be required by State law.

RECOMMENDATION

Approve 12PLN-0019, subject to the attached conditions of approval.

INTRODUCTION

Site Description and Context

The triangular site is adjacent to the John Muir Parkway (Highway 4), and will be the westerly most developed portion of a row of "strip" neighborhood commercial shopping centers located on the north side of the Highway 4. The properties between the site were developed in the 1980's. The orientation of the existing shopping complex immediately to the east is developed in such a manner that a joint circulation plan is not possible hence the subject property will have its own access to Arnold Drive. On the north side of Arnold Drive directly opposite the project is an open space area of the "Village Oaks" neighborhood. The area just west of the site, directly opposite Shadowfalls Drive and Shadowfalls Court, will remain undeveloped as part of the Highway 4 right-of-way. Site context maps and photos are provided as Attachment A.

Previous Approvals and Need for New Approvals

In March 2007, the Planning Commission approved the construction of a new 12,000 sq. ft. mixed use - retail (ground floor) and office (second floor) commercial building ("Francis Plaza") on the property (elevation and plan view provided as Attachment B). Soon after receiving approvals in 2007, the developer demolished the 1,200 sq ft. medical office building and parking lot that had been on the easterly ¼ of the property, and constructed a retaining wall adjacent to the Highway 4 freeway to create the level building site needed for the project. Due to the declining economy at the time, work on the project ceased. While in 2007 the applicant, Stephen Francis, intended to use much of the upper floor of the building for his own dental practice, he has stated that market conditions made the pre-leasing of the lower floor's retail space (and thus financing for the project) too difficult for the project to continue.

Over the interceding years, the applicant explored many options to the original two-story building as approved, including a subdivision of the property and construction of single story buildings, none of which make financial sense.

The current proposal is to subdivide property into two parcels, allowing for the independent yet coordinated development of two distinct commercial ventures: a freestanding restaurant with a drive-thru lane ("Taco Bell") and a 8,000 sq. ft. mixed use - retail (ground floor) and office (second floor) commercial building ("Francis Dental Building"). By subdividing and then potentially selling the easterly portion of the property for the freestanding restaurant, the applicant will be able to phase the project thereby, finance the completion of both phases.

The current proposed Use Permit and Design Review approvals are needed for the freestanding restaurant and its drive-thru facility, as well as to reactivate the previous approvals for the scaled back "Francis Dental Building", which include a Use Permit (for a height exception) and Variance (for minimum rear yard). Variances to reduce parking lot dimension/loading berth requirements are also being requested.

DISCUSSION and ANALYSIS

The project is generally in compliance with development standards of the NC zoning District; a conforming number of parking spaces are being provided and a minimum 50' – 60' front yard (to "Taco Bell" and "Francis Dental" buildings, respectively) is proposed where only 15' is required. Exceptions have been requested to the normally required 15' and rear minimum yards – and such appear warranted given the constrained triangular site and adjacency of Highway 4 right-of-way (at rear yard). An exception has also been requested to the normal 30' building height limit, which, along with other site specific topics, are further discussed below:

Issue 1: Traffic and Circulation

- **ARNOLD DRIVE:** The City Engineer has reviewed the proposed buildings' potential traffic impact on Arnold Drive, and found the added trips will cause a nominal increase to the already large traffic volumes on Arnold Drive, a heavily used collector/frontage road. While the project will not generate any new traffic impacts in need of mitigation, the developer will be required to widen Arnold Drive (approximately 5') to improve the utility of the existing "center turn lane" in front of the project. Widening the center turn lane to the current standard 12' width will facilitate the access and egress into the center, and the flow of through traffic on the travel lanes. Bike lanes will also be widened. It should be noted that the project's two driveways along Arnold are generally at the same locations as shown as part of the 2007 approvals.
- **ADEQUACY of QUEUING at DRIVE-THRU WINDOW:** The City requires Use Permit approval for drive-thru facilities; however, the parking regulations do not prescribe a minimum queuing length. Given the wide variety of demand generated by the various types of businesses that utilize drive-thru facilities, the queuing length is determined by Use Permit approval on a case-by-case basis. The applicant has proposed a queuing lane with room for six to seven vehicles, which as per Abrams Associates Traffic Engineering's Analysis (provided as Attachment C, with supplemental data provided under separate cover) should be more than adequate for the proposed use. Furthermore, the proposed location of the drive-thru window, at the site's eastern edge, both minimizes the potential for drive back-ups to effect Arnold Drive, as queuing up to five additional cars would be contained within the parking lot. The proposed location also results in the screening of the queuing lane from Arnold Drive.
- **NUMBER of PARKING SPACES and PARKING LOT DIMENSIONS:** Abrams Associates Traffic Engineering's Analysis (provided as Attachment B), demonstrates that the project meets the City parking code requirement for the number of parking spaces, which it should be noted, exceeds ITE parking demand. But as with many older codes, Martinez' parking space dimensional requirement is for all spaces to be a minimum of 20' long, where a minimum length of 18' has become common practice. Staff is recommending the following: a) all parking spaces be a minimum 18' length, b) parking spaces will be permitted to be 8½' wide where 9' is normally required and c) permitting a reduction in the drive isle width from 25' to 24'. These minor adjustments facilitate the design of the common parking area while preserving

some minimal planting areas on this very constrained site. The reduction in “standard” space dimensions also appears preferable to the inclusion of “compact” spaces, which by Code could be up to 30% of the total provided. Staff also supports the waiving of the requirement for a “loading berth (45’ x 12”) that is prescribed to commercial developments over 5,000 sq ft., but provide no use for the scale of retail especially since the restaurant is a small operation and proposes loading through front/rear doors.

Issue 2: Design Review and Building Height Exception

The Design Review Committee and staff have been supportive of the overall concept for the “Francis Dental” building, as the proposal building appropriately carries through the “residentially scaled” commercial theme of the adjoining complexes, with their use of horizontal siding and wood detailing. The proposed 2-story concept – with retail below and offices above (½ of the second floor to be the applicant’s dental practice) helps to create a “traditional” as opposed to “strip commercial” image. The use of balconies and central accent tower (which the architect has stated echoes detailing of the John Muir House) appear as attractive upgrades, differentiating the project from its more conventional neighbors without clashing with them. The request for additional height above the normally permitted maximum 30’ (33” above finished grade to top of parapet, 44’ from grade to top of accent tower) is appropriate given the relatively large distances the building will be viewed from both Arnold Drive and Highway 4.

The applicant and Design Review Committee wanted to insure the inclusion of the freestanding “Taco Bell” restaurant would not clash with the “Francis Dental” building. Given the highly eclectic nature of this Arnold Drive commercial corridor, the Committee concurred that Taco Bell need not “match” the “Francis Dental” building, but it rejected the applicant’s first “corporate prototype” proposal. The current “Taco Bell” proposal, supported by the majority, has more muted colors and transitional detailing (such as the trim cap at the multi-colored frieze), providing a better link for two buildings. The applicant has also worked with staff and the Design Review Committee to refine the rear elevation, which will be more visible (as it faces the Highway 4 freeway) that will have a more corporate prototype.

It should be noted that both buildings will share a unified landscape theme, which is also supported by the Committee.

The Design Review Committee comments are provided as Attachment D.

Issue 3: Sign Program and Freeway Elevation Signage

The applicant has proposed a sign program that included both monument project identification signage for the “Francis Dental” building, as well as a program for tenant signage. The proposed project signage is provided as Attachment E.

Tenants of the “Francis Dental” building will have individual wall signs as well as the opportunity to use spaces on the proposed 35 sq ft. monument sign. Except for the proposed rear elevation signs, the sign program conforms to all applicable sign regulations and guidelines, and was well received by the Design Review Committee.

The use of indirect "goose neck" lighting is an attractive upgrade to the typical "internally illuminated can" signs found in such neighborhood commercial centers, and the allowance for individual colors will attractively add diversity within a unifying framework.

Typically, signs are only allowed on building elevations with pedestrian entries, thus the rear (freeway) elevation sign requires the approval of exception as part of the Sign Program. The Design Review Committee was appreciative of the applicant's desire to achieve parity with neighboring centers, which often "front" onto Arnold Drive and thus offer limited freeway identification. By limiting the freeway oriented signage to just the project identification and two tenants, the Committee found that the proposal successfully balances the developer's desire for parity with the Committee's desire to avoid the visual clutter of excessive freeway oriented signage. It should be noted that such limited freeway oriented signage has been included in the nearby Wal-Mart's and Home Depot's signage, as well as at the newly approved "Dollar Tree" retail center.

ATTACHMENTS

- A. Site Context Maps
- B. 2007 Approvals
- C. Traffic Engineer's Analysis
- D. Design Review Committee Comments
- E. Proposed Signage
- F. Tentative Map

EXHIBITS

- Site Plans (full sized)
- Complete Architectural, Landscape and Civil Plans Set (reductions)
- Traffic Study, Abrams Associates

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RESOLUTION NO. PC 12-05 [DRAFT]

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MARTINEZ,
APPROVING A USE PERMIT TO ALLOW A DRIVE THRU FACILITY, AN
EXCEPTION TO THE MAXIMUM PERMITTED 30' HEIGHT LIMIT AND SIGN
PROGRAM INCLUDING A MONUMENT SIGN OVER 20 SQUARE FEET IN SIZE,
VARIANCES TO PERMIT LESS THAN THE MINIMUM REQUIRED 15' REAR YARD
AND TO ALLOW EXCEPTIONS TO THE NORMALLY REQUIRED PARKING LOT
DIMENSIONS AND LOADING BERTH BAY REQUIREMENTS AND A TENTATIVE
PARCEL MAP FOR A TWO-LOT SUBDIVISION FOR TWO NEW COMMERCIAL
BUILDINGS TO BE LOCATED AT 1124 ARNOLD DRIVE.
(APN: 377-112-022)**

12PLN-0019

WHEREAS, the City of Martinez has received a request for Use Permit, Variance, Design Review and Tentative Parcel Map approvals to permit construction of a new two-building commercial development, with an approximate 8,000 sq. ft. commercial-retail (ground floor) and medical office (second floor) building, and a freestanding Taco Bell restaurant (with drive-thru) to permit a drive-thru facility and a maximum 44' building height and sign program including monument signage over 20 square feet in size and signs on the rear wall (Highway 4 elevation); b) Variances to permit less than the minimum required 15' rear yard and reduced parking lot dimension/loading bay requirements, and;

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

WHEREAS, the property is zoned NC (Neighborhood Commercial), and the proposed commercial development is generally consistent with development standards of the NC designation and the requirements for the granting of exceptions to those regulations where applicable; and

WHEREAS, the project is categorically exempt from the requirements of CEQA, under Section 15332 ("In-Fill Development) of CEQA Guidelines; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 11, 2012, in regards to the said actions and has considered public testimony and all other substantial evidence in the record; and

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

1. That the above recitals are found to be true and constitute part of the findings upon which this resolution is based.

2. The proposed building will have a drive thru. Drive-thru facilities within the NC - Neighborhood Commercial Zoning District require a Use Permit. To approve the Use Permit, the Planning Commission must make the following findings, which it hereby does:
 - (a) **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 site had been used for commercial purposes and is currently vacant. The lot is located along a commercial corridor, backing onto the Highway 4 John Muir Parkway (freeway) and the area to the east of the project site is commercial. The parcel is zoned for commercial uses and the proposed drive -thru facility is in keeping with the purpose and objective of the district to promote commercial activity.
 - (b) **The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area.** The proposed drive-thru facility will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area, in that the internal queuing and circulation plan is adequate for the anticipated demand, and thus will not negatively affect on- or off-site traffic patterns. Order boards, speakers and lights are to be positioned as not to have any effects on the adjacent commercial development, and there are no residences abutting the restaurant site. The drive-thru will be operated and maintained in accordance with all public health, safety and welfare codes and standards, including the City's Noise Control Regulation, Chapter 8.34.
 - (c) **The proposed conditional use will comply with each of the applicable provisions of this title.** The drive-through facility will comply with all applicable provisions of this title, through applying conditions of approval.
3. The proposed building will have a parapet height of approximately 33', with a 44' tall accent tower which requires the approval of a Use Permit permitting an exception to the maximum permitted 30' height limit of the NC Zoning District. To approve the Use permit, the Planning Commission must make the following findings, which it hereby does:
 - a. **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 project site is adjacent to the John Muir Parkway (Highway 4) and other commercial properties permitting for the greater height without negatively impacting adjacent properties. Given the generous 60' plus setback from the Arnold Drive frontage, the added height will allow for a two story building and a desirable accent tower that echoes the building form of

the John Muir home, without conflicting with the generally "low rise" character of Arnold Drive/Morrello Avenue commercial area. Due to the 60 foot setback from Arnold Drive the additional height provides greater visibility from Arnold Drive and Highway 4 which is essential for the economic viability of the tenants.

- b. **The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** As discussed above, the building's location adjacent to Highway 4 and far from the street frontage and adjoining commercial property allow for the greater building height without negatively impacting adjacent commercial activities.
 - c. **The proposed conditional use will comply with each of the applicable provisions of this title.** The building's design complies with all other applicable provisions including requirement for variance approval and design review criteria.
4. In order to approve the Use Permit application to allow a monument sign (approximately 35 sq. ft) and the related tenant sign program for the Francis Dental Building, the Planning Commission must make the following findings, which it hereby does:
- (a) **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 project is in accord with the objectives of this title and will be compatible with the commercial zoning district. The proposed project is also compatible with the current uses at the subject property and with the signage in the surrounding area. The proposed monument sign, and wall signs to be allowed under the sign program, will provide clear business identification to vehicles traveling on Arnold Drive and Highway 4. The allowance for freeway oriented signs will provide visibility from the roadways to the new business comparable to the visibility of adjacent commercial properties to the east.
 - (b) **The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** The proposed signs and sign program are designed and will be located so that it will not obstruct the sight distance of vehicles and pedestrians. Also, the proposed signs will be located within the subject property and shall not be permitted to be located in the public right-of-way. Thus, the proposed project will be consistent with existing and surrounding uses and will not be detrimental to public health, safety or welfare, or materially injurious to properties or

improvements in the vicinity.

- (c) **The proposed conditional use will comply with each of the applicable provisions of this title.** With the exceptions sought as a part of this proposal, the proposed monument signs comply with all other applicable provisions of this title, including the Central Commercial zoning requirements and the City's Sign Ordinance.
5. In order to approve the Use Permit application for a freestanding sign over 20 sq. ft., the Planning Commission must make the following special use permit findings per Section 16.32.040, which it hereby does:
- (a) **A free-standing sign is the only feasible means by which the business conducted on the premises can have the same degree of identification to the traveling and shopping public as that available to business on neighboring premises without free-standing signs.** Due to shape of the lot and locating the buildings in close proximity to Arnold Drive is not possible requiring freestanding signage along the Arnold Drive. The proposed monument signs are the only feasible means by which the businesses conducted on the premises can have the same degree of identification to the public as available to the businesses in the surrounding area.
 - (b) **The free-standing sign will not give the business on the premises a greater degree of identification to the public than available to business on neighboring premises without free-standing signs.** The proposed monument signs will not give the businesses at the Commercial Center a greater degree of identification than available to businesses on neighboring premises. The proposed monument sign will be compatible with the signage in the surrounding area.
 - (c) **The free-standing sign is consistent with the objectives of the zoning regulations prescribed in Section 22.02.010 of this Code.** With the exceptions sought as a part of this proposal, the proposed monument sign are consistent with the objectives of the zoning regulations prescribed in Section 22.02.010.
 - (d) **The free-standing sign, if granted, would not adversely affect the preservation of property values in the vicinity.** The proposed monument signs will not adversely affect the preservation of property values in the vicinity because the proposed monument sign is located on the subject property adjacent to a major arterial. The sign is designed to complement the center and to have the least amount of visual impact yet provide adequate signage for the commercial use.
6. The proposed building requires the approval of a Variance allowing an exception

to the minimum rear yard requirements of the NC Zoning District. To approve the Variance, the Planning Commission must make the following findings, which it hereby does:

- a. **Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this title;** The triangular shape and shallow depth of the parcel constrain viable commercial development of this parcel. Application of the normally required minimum 15' rear yard would unduly limit permitted development envelope.
- b. **There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified on the same zoning district;** Most properties with the NC Zoning District are rectilinear in shape, and abut properties to which there may be visual and physical access or a need for a buffer, making the application of a 15' minimum rear yard appropriate. Application of the minimum 15' setback in this instance will eliminate the possibility of development at the site. Furthermore, the triangular shape of the parcel, requiring buildings to be located along the rear property and the fact that the development abuts Highway 4 are exceptional circumstances making the application of the 15' minimum yard unnecessary for functional or aesthetic purposes.
- c. **Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other properties;** Less constrained properties in the NC District typically have the ability to accommodate a commercial building depth of 50' without a variance. Strict enforcement of the 15' side and rear yard would preclude the development of a commercial building with store depths comparable to those of the surrounding suburban style shopping centers.
- d. **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;** Granting this variance would not grant special privileges to this project, as the adjustment of yard depths are intended to provide parity with less constrained typical NC parcels, and will not provide any additional development potential at the site.
- e. **The granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity;** The quality and design of the proposed development will be either at or above that of the surrounding commercial developments in the vicinity of this site. In addition, the proposed development will be of a comparable density and quality to that of the immediately surrounding areas. There will be no reduction in required

separation from adjoining or proposed commercial properties, as no variance is being requested other than for the rear yard adjacent to the Highway 4 freeway right-of-way. Thus the granting of the variance will not adversely impact public health, safety, or welfare, of individuals occupying the site or property and individuals.

7. The proposed building requires the approval of a Variance allowing exceptions to the normally required parking lot dimensions and loading berth requirements, allowing of spaces of 18 x 8.5' when a minimum of 20'x 9' is normally required, and drive isle of 24', when a minimum of 25' is normally required, and waiving of normally required loading berth requirements. To approve the Variance, the Planning Commission must make the following findings, which it hereby does:

- (a) **Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty;** The enforcement of the normally parking lot dimension and loading berth standards would either preclude development or result in the practical difficulty of constructing the development based on the odd triangular and shallow configuration and constrained size of the lot.
- (b) **There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified on the same zoning district;** The irregular shape of the lot and its location adjacent to Arnold Drive makes siting of buildings difficult and therefore requires the buildings to be located to the rear of the property to allow for access and parking. The site is constrained in that it is an infill site, triangular in shape, surrounded by fully developed commercial properties and the Highway 4 freeway right-of-way, leaving little or no flexibility in placement of structures on the lot. The property's irregular shape results in an extraordinary circumstance in that development of the site for commercial use while meeting required parking standards is not possible.
- (c) **Strict or literal interpretation and enforcement of the specified regulations would deprive the applicant of privileges enjoyed by the owners of other properties;** A strict enforcement of the normally required minimum parking lot dimensions and requirement for a loading berth would effectively limit the buildable area of the neighborhood commercial development disproportionately reducing the commercial utility of the constrained site, and thus deprive the applicant of the privileges of enjoyed by owners of other properties within the same NC – Neighborhood Commercial zoning district.
- (d) **Granting of the variance will not constitute a grant of special privileges inconsistent with the limitations of other properties;** As with many older codes, Martinez' parking space dimensional requirement is for parking

spaces to be a minimum of 20'x 9' - when a minimum of 18' x 8.5' has become more common among local agencies. Several nearby projects on similarly constrained lots - with the same requested dimensions and waiving of loading berths - have been recently approved and constructed, thus the request is not the grant of a special privilege.

- (e) **The granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity;** The proposed reduction in parking requirements will have no negative effects on the center's functionality, or appearance. Therefore the granting of the variance will not be detrimental to the public health, safety, or welfare, or be materially injurious to property or improvements in the vicinity.
8. The Planning Commission finds the proposed two-lot subdivision substantially conforms to the requirements of the applicable NC – Neighborhood Commercial Zoning Districts, the State Subdivision Map Act, and Title 21 (Subdivisions) of the Martinez Municipal Code, and hereby approves the Tentative Map for Minor Subdivision #551-12.
9. In order to approve the Design Review application for the Commercial Center the Commission must make the following findings, which it hereby does:
- (a) **Complies with all other applicable provisions of the Martinez Municipal Code involving the physical development of buildings, structures and property, including use restrictions.** The proposal complies with all other applicable provisions of Title 22, noting that Variances have been requested to permit the reduction in parking and setbacks and a Use Permit.
 - (b) **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 project as proposed as a two distinct commercial buildings – a single story fast food restaurant and a two story commercial/office building, sharing a unified landscape theme and color palate. The building mass is broken up through the use of awnings, variations in height, siding materials, and stepping out of the larger building to create relief along the frontage and the variation in height of the buildings provides for a varied roof elevation. The roof design and changes in front elevations provides for the appearance of a small inviting complex.
 - (c) **Has a harmonious relationship with existing and proposed neighboring developments avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted.** The neighboring commercial property is fully developed and “backs” onto the subject property with no physical and visual link. Both building styles

and finishes will share a unified landscape theme and color palate. While less traditional and more colorful than its neighbors, the proposed Taco Bell would not seem out-of context with its commercial setting. Given the highly eclectic nature of this Arnold Drive commercial corridor, the Taco Bell restaurant need not exactly to "match" its neighbor and the blending of colors and will avoid both monotony and excessive variety. The predominate use of naturalistic earth tone colors will soften the appearance of the center and will blend in with the existing developments along Arnold Drive.

- (d) **Uses a limited palette of exterior colors; those colors must be harmonious and architecturally compatible with their surrounding environment.** The project will use colors that will compliment those in the surrounding areas, primarily based on medium warm beiges, with more limited use of darker greens reds and lighter beiges (for Francis Dental) and muted orange and decorative frieze (Taco Bell, which will be harmonious and architecturally compatible with each other and the surrounding environment.
- (e) **Uses a limited number of materials on the exterior face of the building or structure. In addition, all interior surfaces normally visible from public property shall be finished.** The project uses an appropriately limited number of exterior materials, such as similarly colored stucco (Taco Bell) and horizontal hardboard siding (Francis Dental), with integral masonry and earth tone accents unique to each building.
- (f) **Has exterior lighting appropriately designed with respect to convenience, safety, and effect on occupants as well as neighbors.** As per the proposed Conditions of Approval, the lighting sources shall be shielded and/or downcast to avoid creating new sources of glare to existing residents.
- (g) **Effectively conceals work areas, both inside and outside of buildings, in the case of non-residential facilities.** There are no outdoor work areas.
- (h) **Undergrounds all utility boxes unless it can be shown that they can be effectively screened from the view of the general public.** Project conditions require that all utility boxes be underground or located in screened areas as required by the City's Planning and Engineering Divisions.
- (i) **Designs the type and location of planting with respect to the preservation of specimen and landmark trees, water conservation as set forth in Chapter 22.35, and maintenance of all planting.** The applicant has provided a landscape plan that adheres to the requirements

set forth in the Municipal Code.

- (j) **Establishes a circulation pattern, parking layout and points of ingress and egress (both vehicular and pedestrian), designed to maximize pedestrian safety and convenience and to minimize traffic congestion resulting from the impediment of vehicular movement. When applicable, access for handicapped individuals should be considered.** All parking is appropriately located along the front of the property and the integration of the drive thru, loading and customer parking has been designed appropriately for the site. Parking for the disabled is proposed as required per Building Code.
- (k) **Ensures that all signs be designed so that they are in scale with the subject development, and will not create a traffic hazard. Emphasis is placed upon the identification of the use or building rather than the advertising of same.** The applicant has requested a Use Permit for the proposed monument sign and sign program. The size, scale and colors are appropriate and will not create a traffic hazard because of the location of the signs, size and the advertising copy all of which will not be obstruct visibility to and from the site.
- (l) **Substantially preserves views from nearby properties where this can be done without severe or undue restrictions on the use of the site, balancing the property rights of the applicant and the affected property owner(s) (sic).** As the development is proposed on a vacant level site where all surrounding property is also level it is unlikely that views will be obstructed as a result of this development.

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

NOW, BE IT FURTHER RESOLVED that the Planning Commission approves 12PLN-0019 subject to 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 December, 2012:

AYES:

NOES:

ABSENT:

BY: _____
Corey M. Simon
Senior Planner/Clerk Pro Tem

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CONDITIONS OF APPROVAL

APPROVED BY PLANNING COMMISSION [*DRAFT*]Applicant Name: **Francis Plaza LLC/Dave Johnson, Architect**Site Location: **1124 Arnold Drive (APN 377-112-022)**I. Description of Permit

These conditions apply to and constitute the approval of construction of new two-building commercial development, with an approximate 8,000 sq. ft. commercial-retail (ground floor) and medical office (second floor) building, and a freestanding Taco Bell restaurant (with Drive-thru) requiring:

- A. Use Permit to allow a drive thru facility and a maximum 44' building height, where a maximum of 30' is normally permitted, and sign program including monument signage over 20 square feet in size and signs on the rear wall (Highway 4 elevation);
- B. Variances to allow a 5' minimum rear yard where a minimum 15' rear yard is normally required; and the following adjustments to parking lot dimensions and loading berth requirements:
1. Length of spaces: 18', when a minimum of 20' is normally required.
 2. Width of spaces: 8.5', where 9' is normally required.
 3. Width of parking drive isle: 24', when a minimum of 25' is normally required.
 4. Waiving of normally required loading berth requirements.
- C. Tentative Parcel No. MS 551-09 consisting of two lots.
- D. Design Review approval of building elevations and sections, landscape plan, colors and materials and sign program for the commercial development.

II. Exhibits

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

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Site Plan	November 28, 2012	Johnson Lyman Architects	1
Architectural Design	November 28, 2012	Johnson Lyman Architects	8 (11"x17" sized)
Landscape Plan	November 28, 2012	Thomas Baak, Assoc.	8 (11"x17" sized)
Tentative parcel map and improvement plans (<i>DRAFT</i>)	November 28, 2012	Luk & Assoc. Engineers	12 (11"x17" sized)
Proposed Signage	July 22, 2012	(applicant)	15 (8 1/2" x 11 sized)

All construction plans and all improvements constructed pursuant to the, Permit #12PLN-0019, shall conform to these exhibits. Building permit plans shall include a checklist of these conditions for staff review and verification that the conditions have been met. 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. Special Requirements of Minor Subdivision 551-12

- A. Prior to issuing the certificate of occupancy for the proposed building on Parcel "B" of Minor Subdivision 551-12 (Taco Bell Building), all frontage improvement on Arnold Drive, along frontage of said Parcel "B", shall be constructed in accordance Section IV "Street and Parking Lot Improvements" below to the satisfaction of the City Engineer.
- B. Prior to issuing the certificate of occupancy for the proposed building on Parcel "A" of Minor Subdivision 551-12, The entire frontage improvement on Arnold Drive (the frontage of Parcels "A" & "B") shall be constructed in accordance Section IV "Street and Parking Lot Improvements" below to the satisfaction of the City Engineer.
- C. Prior to issuance of a building permit for Parcel "A" or Parcel "B" of Minor Subdivision 551-12, all required fees and deposits, including the development impact mitigation fees, drainage fee, plan check and inspection fees shall be paid in accordance with the City's fee schedule at the time of payment.
- D. An improvement statement(s) and a Fee Statement shall be included on the Parcel Map for Minor Subdivision 551-12 addressing above Paragraphs A, B and C of this Section.
- E. The rights to use common facilities to both parcels shall be secured for the use of each of the proposed parcels, with the recording of deed restrictions and agreements as needed, to the satisfaction of the City of Martinez. The common use area and the common facilities include, but not limited to, parking area, access road, and the area used for utilities, water system, landscaping and irrigation system, sanitary sewer, and storm drain services.
- F. Abutters' right of access on Arnold Drive (except for the access driveways and ADA sidewalk access) shall be dedicated to the City of Martinez on the Parcel Map.

- G. Each parcel shall be provided with a separate utility and water services. All new utility distribution services on-site and off-site shall be installed underground.
- H. All improvements shall be constructed in accordance with City Standards and the City's Municipal Code to the satisfaction of the City Engineer.
- I. All grading and Stormwater Control facilities (C.3 facilities) shall be constructed with the first construction permit, unless a phasing plan is approved by the City Engineer.

IV. Sign Program

Notwithstanding the sign size limits normally prescribed for individual business prescribed by Section 16.32.060, the shopping center's freestanding identification signs and tenant wall signs shall be governed by the following sign program:

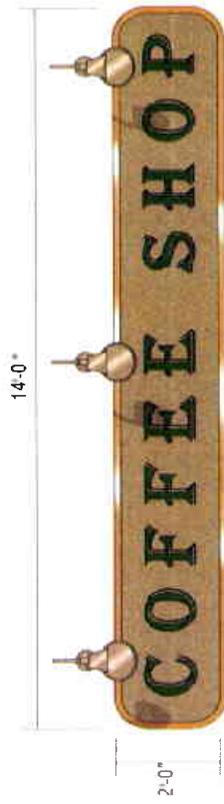
1. MONUMENT SIGN (1 permitted, only for "Francis Dental Building")
 - A. Max height not to exceed: 6' (from sidewalk grade) and 7'(overall); and
 - B. Max area: approx 35 sq ft.; and
 - C. Tenant identifications faces shall have routed out copy, with opaque and uniform color backgrounds; and
 - D. Base and siding materials shall match those of the building; and
 - E. Sign shall include street name and range of address; and
 - F. Sign shall not be located within the Public Right of Way.
2. "FRANCIS DENTAL BUILDING" TENANT WALL SIGN(S)
 - A. Each sign a maximum 14' x 2' indirectly light aluminum panel, as conceptually illustrated by "CONCEPTUAL TENANT SIGN PROGRAM" Exhibit on following page; and
 - B. One such sign for each tenant is permitted on the Arnold Drive elevation, but no more than a total of five; and
 - C. One such additional sign is permitted on the east elevation (for tenant space facing Taco Bell); and
 - D. No more than three such signs on the rear (freeway) elevation.
3. "TACO BELL" WALL & DRIVE THRU- SIGNS
 - A. Max total business identification sign not to exceed approximately 110 sq. ft. with: 1) three internally illuminated logo cans ("bells") - one permitted on each "arch" on the Arnold Drive, freeway and

west elevations with approximately 25 sq. ft. sign area each and; 2) two "push thru letters" canopy signs - one permitted on the Arnold Drive, freeway and west elevations, with approx 7½" letters and approximately 10 sq. ft. sign area each; and

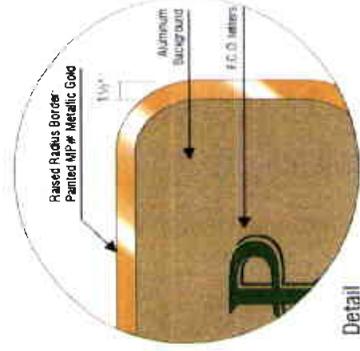
- B. One "order board" sign with approximately 60 sq ft. area; and
- C. Internally illuminated drive-thru direction signage, each not to exceed approximately 3' in height and 2' sq. ft. in "sign copy" area.

CONCEPTUAL TENANT SIGN PROGRAM

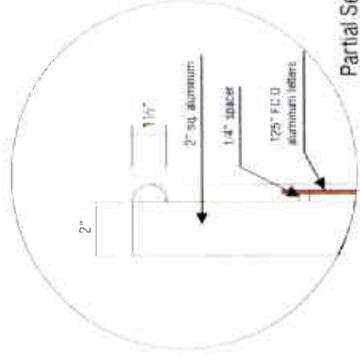
(FROM PREVIOUS 2007 "FRANCIS PLAZA" APPROVAL)



TS.1 to TS.4 Typical Manufacture and Install One (1) Wall-Mounted Display 3/8" = 1'-0"
Indirectly illuminated aluminum wall sign with .125" F.C.O. aluminum letters
stud-mounted w/1/4" stand-offs



Detail



Partial Section

TS.1

TS.2

TS.3

TS.4



North Elevation

V. Site Development and Use Conditions

- A. Site layout (e.g. dimension of planning and parking area, location of plaza paving etc.) shall be as substantially shown on the Architectural and site plans. Civil plans for the final building permit plan set shall be adjusted as needed for conformance. The drive-thru lane shall be signed and delineated with pavement marking as shown on architectural site plan, or as approved by engineering, building and planning staff.
- B. Restaurant ("Taco Bell") operator shall ensure that drive-thru queuing does not extend into Arnold Drive at any time, and shall utilize attendants and/or temporary cones as needed to direct a typical peak demand that could extend into Arnold Drive.
- C. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All fixtures shall be glare-shielded. Energy-saving fixtures shall be used.
- D. All refuse and transformer enclosures shall be sided with the same horizontal hardboard material as the Francis Dental Building. Final design of all refuse enclosures shall be approved by planning staff.
- E. Applicant shall provide design of walkway across drive-thru driveway exit to provide appropriate transition and safety for pedestrians. The design shall be approved by engineering, building and planning staff.
- F. The materials, finished and colors of all exterior walls and roofs within the project shall be consistent with the conceptual architectural plans as approved; final building permit plans subject to staff approval, and shall include specification for all proposed materials and building colors.
- G. All exterior and roof mounted utility and meter boxes and mechanical equipment shall be screened from public view. Equipment and screening shall be shown on final construction plans.
- H. Final landscape and irrigation plans shall be prepared by a licensed landscape architect, and shall be submitted for review and approval by the City at the same time building permit plans are submitted. Final plans must receive City approval prior to issuance of building permits. Landscaping shall be installed prior to issuance of certificate of occupancy, or as approved by the Community Development Director. The plan shall:
 - 1. Be prepared in accordance with the City's adopted water conservation and landscaping ordinance (Martinez Municipal Code Chapter 22.35) Specify trees sizes of at least 15 gal. in size.

2. Soil material and plants for the Bio-retention Basins shall be per the Contra Costa County Clean Water Program C.3 Guidebook requirements and recommendations.
 3. A minimum of 30 percent of the trees shall be 24" box trees. Shrubs shall be 5 gal. size and drought tolerant.
 4. Provide either lawn or a continuous ground cover with complete coverage within 3 years.
- I. All construction and business operation activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. The permittee shall post a sign on the site notifying all workers of these restrictions. Construction Activities on Arnold Drive (including setting up the temporary traffic control measures) shall be limited to Monday through Friday between the hours of 9:00 a.m. to 4:00 p.m.
- J. Grading:
1. The grading operations shall conform to the City's grading ordinance and the soils report requirements, unless amended by the City's review. The onsite finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. A minimum 4-ft. wide clear access shall be provided around each building. Contours with spot elevations shall be used on the site construction drawings.
 2. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
- K. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for fencing and drainage. Design of the fencing between the commercial development and residential properties to the east shall be approved by planning staff.

VI. Agreements, Fees and Bonds

- A. All required improvement agreements in connection with the proposed project shall be submitted to and approved by City and other agencies having jurisdiction prior to City approval to issuance of the Building, Encroachment, Grading or Site development permit, whichever comes first.

- B. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and security deposit(s) including plan check fees, inspection, drainage impact fees and Impact Mitigation Fees. Impact fees for Retail development include but are not limited to: transportation facilities fees, park and recreation facilities fees, cultural facilities fees, police facilities fees, as required by the Community Development Director. The final amount for the above fees shall be in accordance with the fee schedule in effect of time of payment.
- C. All fees and deposits required by other agencies having jurisdiction shall be paid prior to City approval and issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

VII. Drainage

- A. A hydrologic study shall be prepared and submitted to the City Engineer for review and approval to ensure discharge of storm runoff to facilities of adequate capacity. The developer shall make necessary upgrades to existing systems as required to the satisfaction of the City Engineer. Drainage area is defined as all that area draining into, and including, the area of the proposed development.
- B. All concentrated runoff shall be collected and conveyed to an approved storm drainage system. Existing slopes that have no additional discharge directed onto them or are not substantially regraded can remain as natural runoff.
- C. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to filing of Parcel Map or issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.
- D. The storm drain system shall be designed per City and County Flood Control District Standards to carry at least a 10-year storm. Should the runoff due to the proposed development contribute incrementally to an existing flooding problem, then the developer may be required to contribute funds for his proportional share of future drainage system costs as required by the City Engineer.

- E. Parking lots and on-site drainage shall be collected and conveyed to an approved storm drainage facility. When approved by the City Engineer, drainage may be conveyed under the sidewalk and discharged through the curb in accordance with City standards. Drainage shall be directed to a concrete curb and gutter whenever practical.
- F. All public drainage facilities (including the existing storm system), which cross private lots and to be maintained by the City, shall require a 10-ft. minimum width storm drain easement, inlets otherwise approved by the City Engineer. Common private storm drain facilities to be maintained by individual lot owners shall be contained within a private drainage reserves. Said easements and/or reserves shall be shown on the Parcel Map or recorded by separate document prior to City approval or issuance of Building Permit, whichever comes first. All required public storm drain easements shall be dedicated to the City.
- G. Concentrated drainage flows shall not be permitted to cross sidewalks or driveways.
- H. The developer shall comply with Contra Costa County Flood Control District Design requirements.
- I. Fifteen (15) inch minimum RCP (reinforced concrete pipe) shall be used for all public storm drain lines and 12-inch minimum pipe shall be used for laterals and for private storm drain lines per City of Martinez standard.

VIII. NPDES Requirements

- A. Trash enclosures and dumpster areas shall be covered and protected from roof and surface drainage. Drainage from the trash enclosure area shall be directed to the sanitary sewer system.
- 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. Erosion Control: Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer. For projects disturbing one (1) acre or more, developer shall comply with the State Water Resources Control Board requirements, NPDES permit, for construction. The Developer shall be responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) for the project. A copy of the SWPPP and the Notice of Intent (WDID number) shall be submitted to the City prior to issuing permits for construction. The SWPPP and the WDID shall be kept at the job site during construction.
- H. Developer shall comply with the requirements of Provision C.3 of the State Regional Water Resources Control Board NPDES Permit as applicable to this project. This project shall be designed and constructed to comply with C.3 requirements as per the current edition of the Contra Costa Clean Water Program, Stormwater C.3 Guidebook, and the following:
 - a. Prior to the issuance of building, grading, or site development permits, the applicant shall submit a complete stormwater control plan with the operation and maintenance plan for review and approval by the City Engineer. All required documents and agreements shall be submitted and executed prior to issuing permits for construction.
 - b. The construction plans with all required calculations, and specifications for the stormwater control facilities shall be submitted to the City for review and approval. These plans and specifications shall include, but not limited to, grading plan, drainage plans, detail drawings for the proposed facilities, proposed and existing structures, piping, subdrains, landscaping and irrigation plans. The plans shall include a watershed map showing the tributary areas to each facilities and the proposed surface improvement. The locations of the roof drain downspouts shall be shown of the plans.
 - c. The owner(s), in perpetuity, shall be responsible for the ongoing operation and maintenance of the C.3 storm water control facilities

(including annual reporting and review fee) at his/their own expense. Prior to City approval of the plans and issuance of permits, the owner(s) shall execute all required agreements to insure proper operation and maintenance of the facilities. The agreement shall run with the land and include, but not limited to, provision for transfer of ownership and long-term operating and maintenance of the facilities, providing the City and other regulatory agencies the right of entry to perform periodic inspections to insure compliance with requirements, as per the CCCCWP, C.3 Guidebook.

- d. Stormwater control plan and the operation and maintenance plan shall be included as a part of the CC&R (or the City's standard Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry) for this development. The approved stormwater control facilities (C.3 facilities) shall not be removed or modified in any way without the written approval of the City Engineer.
- e. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit as built drawings of the stormwater control facilities, including any updates. All required agreements must be executed and recorded.
- I. Garbage dumpster shall be accessible to garbage trucks and provided with a roof cover.
- J. 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.

IX. Street and Parking Lot Improvements

- A. Frontage improvement: Pursuant to Chapter 12.30 of the Martinez Municipal Code sidewalks, curb, gutter, and street pavement shall be constructed and/or replaced along the entire property frontage. The developer shall construct and dedicate to the City the frontage improvements within the City's right-of-way, including concrete curb, gutter, sidewalk, paving, drainage system, street lights, and street trees, all to the satisfaction of the City Engineer. The existing street structural section shall be removed and replaced along the frontage of the property to the centerline of the street if the existing structural section is cracked or damaged in any way, or if the street structural section is determined by the City Engineer to be inadequate for the intended traffic. All improvement shall be designed and constructed to the satisfaction of the City Engineer. Frontage improvement shall include, but not limited to:

1. Widened Arnold Drive as shown on the preliminary site plans, approximately 5 feet. The final widening shall be subject to the City Engineer's approval.
2. The paving structural design and construction control shall be based on State of California "R" value method, using Traffic Indices (T.I.'s) approved by the City Engineer. The street section design shall utilize a T.I. of 8.5 of with a minimum 0.50 ft. AC pavement section over a minimum 0.5 ft. Class 2 aggregate base.
3. Where required by the City Engineer, right of way shall be dedicated to the City as necessary to accommodate the proposed improvements.
4. The width of the sidewalk shall be no less than 7 feet, as measured from face of curb, unless otherwise approved by the City Engineer. The sidewalk shall be ADA accessible.
5. The street shall be paved and improved after utilities are installed in accordance with City of Martinez Standard Drawings and Design Guidelines.
6. Standard street lights shall be installed, at the developer own expense, along the frontage on Arnold Drive to the satisfaction of the City Engineer. The developer shall bear full costs of energizing the street lights, and monthly utility charges until acceptance of improvements by the City.
7. Street trees shall be planted in accordance with City standards. The species of tree shall be approved by the Parks Superintendent.
8. Street striping and legend shall be thermoplastic, unless otherwise approved by the City Engineer.
9. The location of the fire hydrant(s), if any, shall be approved by the Fire Department.

B. Parking Lot:

1. The design of the pavement structural section shall be based on State of California "R" value method, using Traffic Indices (T.I.'s) approved by the City Engineer. The pavement section design shall utilize a T.I. of 5.0 with a minimum 0.2 ft. AC pavement section over a minimum 0.5 ft. Class 2 aggregate base.
2. The dimension of the parking stalls and isles shall be per the preliminary site plans or City Standards, unless otherwise approved by the City Engineer. ADA parking stalls shall be provided per the building Code.
3. The maximum width of the driveways shall be 35 feet unless otherwise approved by the City Engineer.

- C. Driveways structural section shall be per City Standard Detail for Commercial Driveways. ADA access shall be maintained at driveways to the satisfaction of the City Engineer.**

X. Water and Sanitary Sewer Systems:

- A. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Mt. View Sanitary District. All requirements of that District shall be met before approval of the improvement plans.
- B. Water system facilities shall be designed to meet the requirements of Contra Costa Water District. All requirements of the responsible District shall be guaranteed prior to approval of the improvement plans.
- C. Water system facilities improvements shall be designed to meet the flow requirements of the Contra Costa County Consolidated Fire Protection District.

XI. Other Requirements

- A. A City Encroachment Permit is required for any work within the City Right-of-Way. A site development permit is required for working on the property.
- B. Loading of materials and supplies for operation of the commercial activities at the site shall be done in front of the building and such loading shall be done in such a manner as to minimize noise and length of drop off. The loading of materials shall not take place on a daily basis.
- C. All new utility distribution services on-site and off-site shall be installed underground.
- D. Applicant shall submit for review and approval a CC & R (or other approved agreement) for access to and maintenance of common facilities (including the stormwater control facilities).
- E. Sidewalk pipe drains shall be installed on either side of the driveway and shall conform to City Standard No. S-13.
- F. All traffic control devices, including Stop signs, No Parking signs, legends and striping shall be installed in accordance with plans approved by the City Engineer.
- G. There shall be no parking of construction vehicles or equipment on the surrounding public streets, including all workers vehicles.
- H. The developer shall keep the adjoining streets free and clean of project dirt, mud, materials and debris during the construction period as is found necessary by the City Engineer.

- I. 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.
- J. All construction equipment shall be muffled in accordance with State Law.
- K. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.
- L. Design of all public improvements shall conform to the City of Martinez Design Guidelines, Standard Special Provisions, and Standard Drawings. Prior to preparation of improvement plans, the developer or his representative should contact the City's Engineering Development Review section of the Community Development Department.
- M. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and approved by the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to filing of the Parcel Map or issuance of a Building, Site, Grading or Encroachment Permit whichever comes first. Approved plans shall become the property of the City of Martinez upon being signed by the City Engineer and Community Development Director.
- L. Prior to City approval, all fees, bonds, and deposits shall be paid and posted; all agreements shall be executed and all grading and improvement plans shall be approved by the City Engineer and Community Development Director. No construction shall take place until the issuance of the appropriate Encroachment, Site, Grading and/or Building Permits.
- M. All fees and deposits required by City and other agencies having jurisdiction shall be paid prior to approval of the plans and issuance of permits.
- N. Should the developer wishes to phase the site improvements, the developer shall submit a master plan for review and approval by the City Engineer. Common improvements including, but not limited to, drainage improvements, C.3 facilities, and utilities shall be constructed with the first phase, unless otherwise approved by the City Engineer.
- O. The developer shall comply with all the mitigation measures listed in the approved environmental documents, if any, prepared for this project. The Community Development Director shall interpret the mitigation measures and furnish the developer with specific improvements to be installed.
- P. Prior to issuance of the first building permit, the access to building sites shall be graded and improved to at least an all-weather surface condition,

and operating fire hydrants shall be in place.

- Q. Prior to issuance of the first certificate of occupancy, the public improvements including streets, sewers, storm drains, street lights, and traffic signs required for access to the sites of that phase of the project shall be completed. All public improvements shall be completed and accepted by the City prior to issuance of certificate of occupancy on final dwelling unit in the project.
- R. Prior to acceptance of improvements, offers of dedication, and release of security deposits by the City, the City's record copies of the grading, site, and improvement plans shall be updated to show "As Built" conditions of the project. Said plans shall be prepared by the responsible Civil Engineer of work and shall reflect all changes made during the course of project construction. Grading and improvement plans shall be 24" x 36" in size. The as built plans and final map shall be provided in 4 mil photo mylars and in the form of electronic files compatible with AutoCAD release 14.
- S. All on-site improvements not covered by the building permit including sidewalks, driveways, paving, sewers, drainage, curbs and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
- T. Building permits for retaining walls shall be obtained as follows:
1. For major walls to be constructed during the mass-grading phase, obtain permit prior to issuance of the Grading or Site Development Permit.
 2. For all other walls, obtain permit prior to issuance of Permits for structures on the respective lot.
- U. Any existing water wells on the property shall be filled and sealed off or otherwise disposed of as directed by the City Engineer.
- V. Public facility with kitchen (restaurants, meeting and recreation rooms) shall be approved by the Contra Costa County Health Department.
- W. Approval by the applicant's Soils Engineer, the City's Soils Consultant, the Fire District, Sewage District, water agency, of all improvements and buildings is required prior to City approval of construction plans.
- X. Work hours on Arnold Drive: Construction activities on Arnold Drive shall be restricted to Monday - Friday and to the hours of 9:00 a.m. to 4:00 p.m. Work on weekends shall not be permitted. No equipment shall be started or delineation take place on the street before or after the specified

operations hours.

XII. 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 tentative parcel map, and the Use Permit, Variance and Design Review approvals integral to the map, shall expire on **December 11, 2014** (24 months from approval date) unless:
1. The final map, the Improvement plans and all required documents are filed with City Engineer prior to the expiration date;
 2. Or if an application for extension with all required fees are received prior to the expiration date as state in item B below.
- C. Extension of the tentative map approval: Extension(s) shall be in accordance with the City's Municipal Code and Subdivision Map Act requirements. Tentative map extension can be considered upon receiving an application with required fee at least 45 days before the original expiration date of **December 11, 2014**. If the tentative map is expired a new application is required. A public hearing will be required for all extension applications. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors 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, Francis Plaza LLC/Dave Johnson, Architect, 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 Planning Commission's decision to approve the Permit #12PLN-0019, 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 Francis Plaza LLC/Dave Johnson, Architect , the City, and/or the parties initiating or bringing such action.
- F. Francis Plaza LLC/Dave Johnson, Architect , 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 Francis Plaza LLC/Dave Johnson, Architect desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents.

- G. In the event that a claim, action or proceeding described in section E, above, is brought, the City shall promptly notify Francis Plaza LLC/Dave Johnson, Architect 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 Francis Plaza LLC/Dave Johnson, Architect 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 Francis Plaza LLC/Dave Johnson, Architect 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 Francis Plaza LLC/Dave Johnson, Architect 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. Francis Plaza LLC/Dave Johnson, Architect 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.