

Date: September 6, 2011
To: Calistoga Planning Staff and Planning Commission
From: Olof & Elizabeth Carmel
Re: Design Modifications in Response to Planning Commission Requests

A. Design Modifications

We have redesigned some components of the Carmel Gallery building in response to Planning Commission requirements from the August 24 Design Review hearing. These modifications are shown on the attached plans.

1. The exterior finish materials on rear of the building have been changed to plaster from wood in order to match the other elevations.
2. Clay roof tiles will be used on the entire roof. The rear elevation will have the roof tiles curve over the fascia board the same as on the front.
3. A solid wood door is now proposed on the back in the same stain color as the front doors.
4. 8x8 outlookers (detail 3 on page 3 of plans) will be added at 6 foot o.c. spacing at south elevation (Bank of the West side) below the gutter. They will protrude 11 inches from the building. The west (rear) elevation will have the added outlookers at 4 foot o.c. spacing under the fascia board, similar to the front elevation.
5. The HVAC unit is being moved to the rear roof on the north elevation (Sugar Daddies side). This will not be in public view.
6. The existing rear fencing will shield any garbage cans from public view.
7. It was brought up at the August 24 hearing that the building may need to incorporate more modern elements so as not to appear "too historic". In order to address this issue we are proposing using aluminum clad wood windows instead of the wooden windows originally proposed. This is supported by our architect Craig Threshie who states: "In my practice throughout Northern California within State Registered Historic Districts I have designed within over the past three decades, it has been a consistently recognized and approved practice to utilize differentiated window frame materials, in this case aluminum cladding, on either new buildings or additions to historic buildings so as not to falsely present this new building as a historic building within the historic district." The full text of Mr. Threshie's letter is attached to this memo. If the Commission disagrees with this proposal then we request that use of the wooden windows be added as a condition and be checked at the issuance of building permit to avoid delays with the CUP approval on Sept. 28.

B. Response to issue of Performance Bond Raised at Planning Commission

We are extremely concerned about a possible requirement that we post a performance bond for completion of the project. It is our understanding that this is not a codified City requirement. This issue was never raised in our discussions with the City when we were determining the feasibility of the project. In our experience



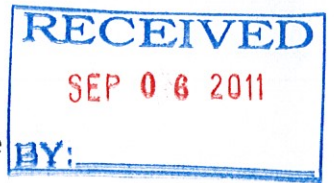
this type of requirement is usually reserved for very large projects such as shopping malls managed by large contracting companies, or City owned public works projects, and not on smaller infill downtown projects such as ours. We understand the concern from which the performance bond issue arises, namely that the project construction will be halted when incomplete, possibly due to lack of funds to complete it. We can assure the City that the funds are in place to complete the project in a timely manner. We own the property outright with no liens or mortgages, so there is no possibility of foreclosure. The stringent City building inspection process will ensure that the building is completed according the plans we have submitted.

Market economics would ensure that the project be completed since the property is worth more with a completed building than without. Requiring a performance bond will likely kill the project since it will be very difficult for us to obtain a performance bond for this type of project. We have contacted various companies who provide performance bonds, and have determined that if we were able to get one it would be prohibitively expensive and would likely cost us 15 to 20 % of the total project cost, making the project infeasible. In addition there is a possibility that imposition of such an onerous requirement could be considered an unconstitutional "taking" of private property without just compensation, since providing a performance bond would be almost impossible and would effectively prohibit any future development of this property.

Requiring a large amount of cash to be put in a bank account for security would also be prohibitively expensive and would adversely affect the budget to complete the project. We have a proven track record of completing what we begin in a timely manner, as is evidenced by our completed gallery in Truckee and our residence in Calistoga. Most of the potential project stopping risk and expense of a project like this is in the entitlement and permitting stage. Once actual construction starts the most serious risks and problems have been evaluated and addressed. It is a fairly simple building and there is no reasonably foreseeable reason why we would not complete it once construction starts.

Requiring a performance bond or cash security would be a lose - lose situation for both us and the City since we would not be able to pursue the project and the City would lose out on needed economic development. This type of performance bond is counter to the entrepreneurial spirit and intent of the Calistoga economic development ordinance.

The unique business climate and appearance of downtown Calistoga were not created through performance bonds. The downtown was created by good business people who were invested in the community; and who built beautiful structures that have withstood the tests of time. If the City, as a matter of policy, requires performance bonds for any new downtown construction it will effectively eliminate smaller entrepreneurs like us from investing in the downtown. This type of



requirement could make these types of infill projects feasible only to large development corporations.

C. Additional Items Requested for Use Permit

1. A preliminary construction management plan has been provided. A construction easement has been granted by the owner of the property behind our parcel (apn 011-221-019) , allowing construction vehicles and deliveries to occur in the rear of the parcel. This will minimize construction activity from the Lincoln Avenue side.
2. A preliminary engineered drainage study and survey have been completed. The survey is attached to the submitted plans. The drainage study concludes that all runoff will be absorbed onsite.
3. An engineered fire flow analysis was completed. A summary of the findings is attached.

D. Encroachment Permit from City for Balcony

It is our understanding that an encroachment permit for the balcony will need to be obtained from the City. We request that this be a condition of approval for the project and not be required prior to Commission approval of the CUP. This will allow us to complete the project in a more timely manner.

Conclusion: We respectfully request approval of our design review and conditional use permit at the September 28 hearing so we can proceed with the next stages of project construction. We request that any new requirements raised at the September 28 hearing be added as conditions to the project to avoid further delays.