CITY OF ST. HELENA

RESOLUTION NO. 2004-33

APPROVING A USE PERMIT TO CONVERT THE MARLINDA SKILLED NURSING HOME TO A DORMITORY FOR STUDENTS ENROLLED AT THE CULINARY INSTITUTE OF AMERICA GREYSTONE CAMPUS.

PROPERTY OWNER: Eugene and Marthann Demchuk

APN: 009-001-024

Recitals

1. The Culinary Institute of America (CIA) requested approval of a Use Permit to convert the Marlinda Skilled Nursing Facility to use as a dormitory for students enrolled at the CIA Greystone campus. The request was made pursuant to Section 17.140.020 D, which allows a non-conforming use to be changed to another nonconforming use of lesser intensity. The property is zoned A-20: Twenty Acre Agriculture and a skilled nursing facility is neither a permitted nor conditional use in the zoning district.

The Marlinda Skilled Nursing Facility is 15,862 square feet, including a storage/laundry building to the rear of the property. The main building has bedrooms, kitchen, offices, physical therapy rooms and a beauty salon. The facility is located on a 2.61 acre property and has City water and City sewer services.

Marlinda has been licensed for an occupancy of 70 residents in the past, but has been operating with a permit for 61 residents in recent years. The CIA proposes to use the facility for 40 students and one resident manager. The interior of the main structure will be remodeled to have 40 bedrooms, each with a private bath. There will be also be a lounge/dining area and kitchen. The exterior of the structure will not be modified except to repair existing conditions. The storage/laundry building will remain in that use. The students will attend courses at the CIA Greystone campus for periods of time ranging from three to five days. The school will operate a shuttle bus to take students between the dormitories and the Greystone building.

The CIA would also like to utilize the property for overflow parking from special events. The CIA has previously utilized Beringer Vineyards, Charles Krug, Markham Winery, Freemark Abbey, St. Clement, and Marlinda for overflow parking.

2. The Planning Commission of the City of St. Helena, State of California, held a noticed public hearing on February 17, 2004 and approved the use permit.

3. The Planning Commission action was appealed to the City Council by Joice Beatty. The appeal was filed within the 14 day appeal period.

Resolution

The City Council of the City of St. Helena, State of California, approved the Use Permit on the following basis:

A. The City Council hereby finds that this project is exempt from the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines pertaining to existing facilities. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

B. The City Council makes the following Use Permit findings, Section 17.168.050, to support the motion to approve the Use Permit:

1. That the proposed use would not generate odors, fumes, dust, light, glare, radiation or refuse that would be injurious to surrounding uses or to the community.
2. That the proposed use would not generate levels of noise that adversely affect the health, safety, or welfare of neighboring properties or uses.
3. That the proposed use would not generate traffic noise in excess of the "normally acceptable" range identified in the General Plan.
4. That the proposed use would not make excessive demands on the provision of public services including water supply, sewer capacity, energy supply, communication facilities, police protection, and fire protection.
5. That the proposed use would provide adequate ingress and egress to and from the proposed location.
6. That allowing the proposed use would not conflict with the City's goal of maintaining the economic viability of a local serving economy.
7. That the proposed use would be compatible with surrounding land uses and would not conflict with the purpose established for the district within which it would be located.
8. That the proposed use would not be in conflict with the City's General Plan.
9. That the proposed use would not be injurious to public health, safety, or welfare.
10. That granting the use permit would not set a precedent for the approval of similar uses whose incremental effect would be detrimental to the City or would be in conflict with the General Plan.
11. That, as demonstrated on a detailed plan submitted by the applicant, adequate off-street parking to accommodate the long term parking needs of employees and business owners and customers is available.
12. That the capacity of surrounding streets is adequate to serve the automobile and delivery truck traffic generated by the proposed use.

C. The City Council makes the following additional findings, pursuant to Chapter 17.168. to allow the conversion of a non-conforming use to another non-conforming use of lesser intensity:

1. The proposed nonconforming use is of lesser intensity than the previous nonconforming use (e.g., fewer employees, reduced storage capacity, reduced demand on public facilities, reduced traffic impacts, less energy consumption or fewer hours of operation);
The City Council utilized the following information for the approval of this finding:

Marlinda operates with 45 full time employees over three shifts per day plus other part-time employees. The CIA dormitory use would have one resident manager plus part-time housekeeping and gardening services.

Storage capacity would be reduced on site because interior rooms are being rearranged to be bedrooms.

Water and sewer use is projected to decrease with the dormitory use. The following chart shows the water use for Marlinda for the years 2001, 2002, and 2003.

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>3 year average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avg. use per day</td>
<td>6,657 gpd</td>
<td>6,545 gpd</td>
<td>5,597 gpd</td>
<td>6,266 gpd</td>
</tr>
<tr>
<td>Avg. 2 month use</td>
<td>399,432 gallons</td>
<td>392,700 gallons</td>
<td>335,852 gallons</td>
<td>375,994 gallons</td>
</tr>
<tr>
<td>Yearly use</td>
<td>2,396,592 gallons</td>
<td>2,357,696 gallons</td>
<td>2,015,112 gallons</td>
<td>2,256,466 gallons</td>
</tr>
</tbody>
</table>

A water use agreement will limit the water use of the dormitory to 1,150,000 gallons of water per year. This is approximately 50% of the historical use.

The decrease in sewage generation should also be proportionately decreased with the conversion to dormitories. The Marlinda sewage system is unusual in that there are three on-site septic tanks, but no leach field. Instead, there are grinders in two of the tanks to break down the solids. These two tanks are then pumped into the larger third tank. The liquids from the third tank are pumped to the City’s Crinella Street Pump station, which then pumps to a gravity flow sewer main.

There will be a substantial reduction in traffic trips due to the reduction in employees on-site.

The lighter occupancy load, fewer hours of occupancy, and fewer employees should result in less energy consumption.

The skilled nursing facility operates 24 hours per day, 365 days per week. The dormitory will primarily be occupied during weeknight evenings when classes are over for the day.

2. The proposed nonconforming use will not be detrimental to any existing or potential permitted use in the area in which the nonconforming use is located. These findings shall be in addition to those required for the approval of use permits contained in Chapter 17.168. If a nonconforming use is replaced by a use of lesser intensity, the occupancy thereafter may not revert to a use of greater intensity. In granting a use permit to allow a nonconforming use to be replaced with another nonconforming use of lesser intensity, the planning commission shall establish an amortization schedule for the nonconforming use, by setting a date after which the nonconforming use must be discontinued or replaced with a conforming use.

Existing and potential uses in the surrounding agricultural and residential districts will not be harmed by the change in non-conforming use.
The amortization period for the dormitory use shall coincide with the time period allowed by the Income Tax Code for amortization of the buildings and improvements. That time period allows a thirty-nine and one half year depreciation schedule.

D. The Use Permit for the above described use is granted subject to compliance with the following conditions. Permit shall be in conformance with all City ordinances, rules, regulations and policies in effect at the time of issuance of a building permit. The conditions noted below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

1. The Use Permit shall be vested within one (1) year from the date of approval. A building permit for the use allowed under this Use Permit shall have been obtained within one (1) year from the effective date of the Use Permit or the Use Permit shall expire; provided however that the Use Permit may be extended for up to two (2) one-year periods pursuant to the St. Helena Municipal Code, Section 17.08.130, Extension of Permits and Approvals.

2. This permit is valid for this use only. New permits must be applied for upon any change in use. These permits will expire if the use is discontinued pursuant to then existing ordinances and regulations.

3. Any request for an extension of the Use Permit must be justified in writing and received by the Planning Department at least thirty (30) days prior to expiration.

4. All required fees, including planning fees, development fees, building fees, toilet retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Fees shall be those in effect at the time of the issuance of the building permit. All required fees, including planning fees, development impact fees, building fees, toilet retrofit fees, and St. Helena Unified School District fees shall be paid prior to issuance of building permit. Pursuant to City Council Resolution 2003-65, the owner and applicant are informed of the following:

   In recognition of the need for additional affordable housing, and to mitigate the effects of this development on the supply and demand of affordable housing, the permittee shall be subject to a Housing Impact Fee, an inclusionary requirement, an in-lieu fee, and/or similar fair and appropriate mechanisms, to provide funds for or to develop additional affordable housing, should such mechanisms be established by the City.

5. Compliance with all permit conditions shall occur in accordance with specific regulations but in all cases no later than prior to occupancy or initiation of use unless another time is set by law or by this approval. Occupancy or final inspection of a project may be withheld if all conditions, including payment of fees for services rendered by the City, are not met.

6. The applicant will defend and indemnify and hold the City, its agents, officers, and employees harmless of any claim, action or proceedings to attack, set aside, void or annul an approval so long as the City promptly notifies the applicant of any such claim, action, or proceedings and the City cooperates fully in the defense of the action or proceedings.
7. Provided they are in general compliance with the Use Permit, minor modification may be approved by the Planning Director.

8. This Use Permit shall run with the land and shall be binding upon all parties having any right, title or interest in the real property or any part thereof, their heirs, successors and assigns, and shall inure to their benefit and benefit of the City of St. Helena.

9. The primary purpose of this review is for compliance with the General Plan and Zoning Ordinance. The owner/applicant is responsible for meeting with the Building Official / Fire Inspector to review compliance with Building and Fire Codes, including fire protection systems and the accessibility standards of Title 24.

10. This permit allows the continuation of a legal non-conforming use. Pursuant to Municipal Code Section 17.140.020 D. 2., the Planning Commission establishes an amortization schedule of 39.5 years. Therefore, the use shall be discontinued or brought into legal conforming status prior to September, 2043.

11. The use of the Marlinda facility as a dormitory fulfills the 1993 use permit requirement for student accommodations and allows the enrollment of 104 students at the Greystone Campus.

12. Construction shall be consistent with plans marked Exhibits A, B and C, dated 02/03/04 and with the uses as described in this document.

13. The dormitory rooms shall only be rented to students and teachers of the Culinary Institute of America at Greystone. Rental of rooms are subject to payment of the Transient Occupancy Tax (TOT) pursuant to Municipal Code Chapter 3.28.

14. CIA shall operate a shuttle bus between the Greystone campus and the Pratt Avenue dormitories. The minimum service provided by the shuttle bus shall be on weekdays to coincide with class schedules.

15. In compliance with State Housing Law (Title 25), a manager is required to reside upon the premises.

16. The Marlinda parking lot shall only be utilized by staff and students of the Culinary Institute of America.

17. The property owner shall enter into a water use agreement with the City of St. Helena for municipal water use not to exceed 1,150,000 gallons of water per year. The water agreement shall also be structured to encourage other means of water conservation.

18. A Magnetic Flow Meter shall be installed on the pump at the wastewater system to measure the sewerage flows to the Crinella pump station for the purpose of determining the extent of stormwater infiltration.

19. Any future modifications to landscaping shall be submitted to the Planning Director for reviews. Landscape plans shall comply with Ordinance 92-20, Water Efficient Landscape
Standards and Procedures. Plans shall be designed and verified by a landscape professional and shall include drought tolerant landscaping and low water irrigation systems. Landscaping shall not block vision from exits or at street intersections. If the landscape area is 2,500 square feet or greater, a landscape water flow meter shall be installed for verification of the amount of water being used for landscaping.

20. Plant materials shall be purchased from a source that verifies they have been inspected for glassy winged sharpshooter to ensure that they will not contribute to the spread of Pierce's disease to the surrounding vineyards.

21. Plans and specifications for alteration of the existing automatic fire protection system shall be submitted to the Fire Department for review and approval prior to permit issuance.

22. Fire equipment shall be inspected annually by the Fire Department.

23. Exterior lighting shall be directed or shielded to prevent glare onto the public roadway or adjacent properties.

24. The applicant shall provide for the enclosed storage of trash and separated recyclable materials. The design of the trash storage and recycling area shall be reviewed and approved by the Planning Director.

25. A backflow prevention device shall be installed prior to occupancy unless waived by the Public Works Director.

26. No signs, awnings, or facade modifications shall be installed or constructed without approval of a Sign Permit or Design Review.

27. This property is located in an agricultural district. There exists a right-to-farm the adjoining property. There is a good faith expectation that no complaints will occur regarding legal, normal agricultural activities on the adjacent land. Such activities may include day or night disbursement of chemicals, and creation of dust, noise, or fumes.

Approved at a Regular Meeting of the St. Helena City Council on March 23, 2004 by the following vote:

AYES: Councilmembers Potter, Schoch, Savidge, Sklar, Mayor Slavens
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

Ken Slavens
Mayor

ATTEST:

Delia Guijosa
City Clerk