TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission

DATE: June 18, 2015

FROM: Jim Moore, Director of Planning and Building Services

Linda Neal, Principal Planner

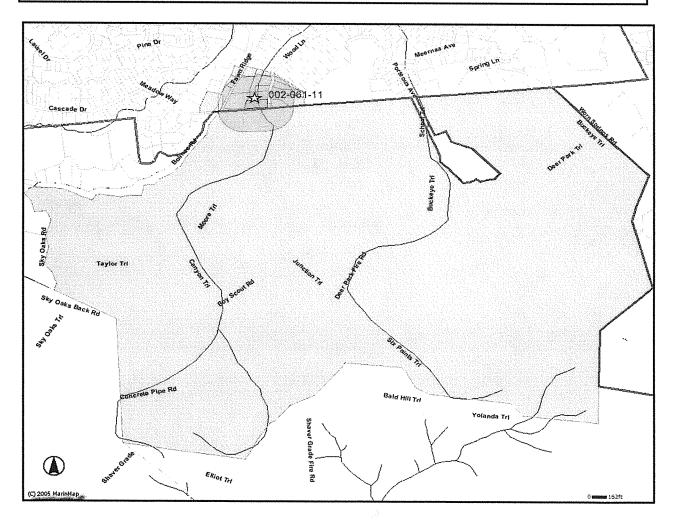
LOCATION: 132 Wood Lane; Assessor's Parcel No. 002-061-11

ZONING: Residential Single-family RS 6 Zone District **PROJECT:** Conversion of shed/laundry to bedroom/bath

ACTION: Use Permit; Application # 15-17

APPLICANT: Rich Dowd, Architect
OWNER: John and Marla Hedlund

CEQA STATUS: Categorically exempt, § 15303(e)



132 WOOD LANE

BACKGROUND

The 29,649 square foot site is 100 feet wide. The site boundaries were recently changed when the owner went through a quiet title process to obtain ownership of an easement that ran across the southern side property line, and purchased a portion of a piece of land at the front of the site from Marin Municipal Water District. The eastern 1/3 of the site is level, lying on the floor of the Wood Lane canyon while the western 2/3 has an average slope of 28%. The site is currently developed with a recently remodeled/reconstructed 1,532 square foot, three bedroom, 2 bath residence, swimming pool, a pool cabana, a 469 square foot accessory structure and a garage.

The property is zoned Residential Single-family RS 6 and the front portion, where the garage is, is located within a flood zone. The home and the accessory structure are located out of the flood zone area.

DISCUSSION

The project encompasses legalizing the conversion of the accessory structure from a laundry/storage building to a bedroom and full bathroom. The structure was described as storage shed with electrical and a sink by the Fairfax Building Official when he did a resale inspection of the site in 2011. The accessory structure has now been converted into a bedroom with a full bath and a kitchenette area with a sink and microwave (Exhibit C). The structure itself is legal non-conforming with respect to the minimum and combined side yard setbacks. Town Code § 17.080.070(B)(2) requires that structures maintain a minimum side setback of 5 feet and a combined side setback (distance between the accessory structure and the north side property line and distance between the house and the south side property line) of 20 feet. The accessory structure maintains a side setback that varies from 4 to 5 feet and the house maintains a side setback of 10 feet for a combined side setback of 14 feet instead of the required 20 feet. This existing, legal non-conforming setback will not be changed by the project and there are no windows or openings on the north side of the structure that might impact the neighboring property on that side. No setback variance is required for the project because the setback is not changing.

The building also contains a kitchen based on the Town Code definition of a kitchen as follows:

Any portion of a structure with any combination of the following: sink, other than that within a bathroom, food storage and preparation areas, refrigerator, stove, microwave oven, convection oven, cooking burners or similar appliances which may reasonably be used for the preparation of food (Town Code § 17.008.020, definition of kitchen).

Any area with a full bath and a kitchen as defined above constitutes a residential second unit per Town Code § 17.048.030 which defines a second unit as follows:

A completely separate housekeeping unit with kitchen, sleeping and bathroom facilities which is a part of, an extension to, or a separate structure on a site developed with a single-family residence, in excess of the maximum density designated by the zoning district in which the property is situated or a prescribed thereby.

The applicants have decided to remove the counter, cupboards and other improvements that constitute a kitchen and not to apply for a residential second unit. They are asking to install a utility sink in the room, a second sink outside the bathroom, but that alone does not constitute a kitchen. Their decision to not apply for a second unit was based on two factors: 1) research done by their architect Rich Dowd of RD Architecture, revealed that legalizing the unit would cost roughly \$44,000 (Exhibit E); and, 2) it would also require applying for a variance to install a second driveway and giving up a portion of their yard for an additional parking space or applying for, and obtaining, approval of a parking variance.

Please Note: Until improvement standards are lessened by all the agencies regulating second units, it will remain difficult to increase the Town's affordable housing stock through the improvement and legalization of residential second units which is a goal of the 2010 -2030 Fairfax General Plan. Another threat to second unit affordable housing that is becoming a reality in Fairfax, is the conversion of some affordable units, both legal and unpermitted, to air bed and breakfast uses.

Use Permit

The property is located in the Residential Single-family RS 6 Zone District where accessory structures can only be used for parking, storage (tool sheds), play houses and pool cabanas [Town Code § 17.080.040(A)]. However, Town Code § 17.080.030(I) gives the Planning Commission the authority to approve Use Permits to allow unlisted uses of accessory structures such as the use as a bedroom and bathroom.

The purpose of the Conditional Use Permit process is to, "allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the Town or in a zone or only if the uses are designed or laid out on the site in a particular manner". When the Commission reviews an application for a Conditional Use Permit they are charged with considering the nature and condition of all adjacent uses and structures as well as the health safety and welfare of the general public. Uses that may seem innocuous may impact neighbors if located in required setbacks, on small parcels or on a slope above a residence. In order to approve a Conditional Use Permit, the Commission must make the following legal findings:

- The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
- The development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or

premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

- Approval of the use permit is not contrary to those objectives, goals or standards
 pertinent to the particular case and contained or set forth in any Master Plan, or
 other plan or policy, officially adopted by the City.
- Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

The site is very large, much larger than most of the other parcels in the neighborhood. Even though the accessory structure is located within the required minimum and combined side yard setbacks, it has existed in this location for many years. It also has no openings on the north side where it is located closest to the neighboring home. Therefore, legalization of the structure as a fourth bedroom and bath for the main house will have minimal impacts on the neighbors. Conversion of the 469 square foot space to living space will not increase the site Floor Area Ratio or the lot coverage on the site which are currently at 7% and 21 % respectively while the Town Code permits a Floor Area Ratio (FAR) of 40% and a Lot Coverage of 35% [Town Code § 17.008, Definitions of Floor Area and Lot Coverage, § 17.040.010, Lot Coverage and 17.136.030, Maximum Flood Area).

There are many residential properties throughout Fairfax that have accessory buildings with full or half bathrooms and that have been approved for residential use by the Planning Commission. Typical approved uses are as offices, bedrooms, art studios, meditation rooms, etc. Granting approval for this accessory building to be used as a bedroom and bath for the main house will therefore not be a grant of special privilege. Included in the conditions in the attached Resolution No. 15-17 for approval of the project is the requirement that the owners sign, notarize and record a deed restriction indicating that the accessory structure will not include a kitchen and will be used as bedroom/bath extension of the main residential use. This will help ensure that reconversion of the structure to a residential second unit without the required code upgrades and parking does not occur.

Other Agency/Department Comments/Conditions

Ross Valley Fire

 A fire sprinkler system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate permit is required from the Fire Department. Plans and

- 2. specifications for system shall be submitted by an individual or firm licensed to design and/or design/build fire suppression systems and be noted on the plans.
- 3. An effective fire break shall be maintained around the building by removing and clearing all flammable vegetation and/or other combustible growth within the defensible space zone of 30 to 100 feet. Ross Valley Fire protection Standard 220 Vegetation/Fuels Management plan is available on-line@Rossvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.
- 4. All smoke detectors in the house and accessory bedroom/bath shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence. The alarm in the accessory structure can be located anywhere in the main room (not in the bathroom).
- 5. Carbon monoxide alarms shall be provided in both residential buildings and shall be located outside the sleeping areas in the main house and anywhere in the accessory bedroom main room.
- 6. Address numbers at least 4" tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only be a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.

Marin Municipal Water District

- 1. The proposed conversion of 469 square foot shed into a bedroom and fill bathroom will not impair the District's ability to continue service to this property provided the newly created living space is not a separate second living unit.
- 2. The project must comply with all indoor and outdoor requirements of District Code Title 13, Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape Plans shall be submitted and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan and a grading plan.
- Should backflow protection be required, it shall be installed prior to the final
 inspection for the retroactive building permit for the conversion of the structure to
 living space.

Ross Valley Sanitary District

- 1. The project will require a connection permit from the District. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral needs to be tested in the presence of a District Inspector and be found to meet all current District requirements.
- 2. Sanitary District No. 1 will place a hold on said property once the building permit is issued. This hold prevents the new building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain a sewer connection permit from the District and meet all the District's requirements pertaining to the private side sewer lateral.

Fairfax Building Department

Water heaters may not be located in bedroom or bathroom closets unless it is a direct vent heater or the doors are self-closing and fitted with a continuous gasket.

Fairfax Police/Public Works

Neither the Police Department nor the Public Works Department had any comments or conditions for the project.

RECOMMENDATION

Move to approve application # 15-17 by adopting Resolution No. 15-17 that sets forth the findings and conditions for project approval (Exhibit A – Resolution 15-17).

ATTACHMENTS

Attachment A - Resolution No. 15-17

Attachment B – Applicant's supplemental information

Attachment C - photographs of accessory structure

Attachment D – letter of support from neighbors

Attachment E – 2nd unit cost analysis by Rich Dowd, Project Architect

RESOLUTION 15-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX APPROVING APPLICATION NO. 15-17 FOR CONVERSION OF 469 SQUARE FOOT ACCESSORY STRUCTURE INTO A BEDROOM AND FULL BATHROOM AT 132 WOOD LANE

WHEREAS, on June 18th, 2015 John and Marla Hedlund submitted an application for a Use Permit to convert a 469 square foot accessory storage/laundry room to bedroom and bathroom; and

WHEREAS, on June 18th, 2015, the Planning Commission considered a staff report and its exhibits; and

WHEREAS, as set forth in the staff report prepared for the Planning Commission, the proposed improvement will not increase the floor area or the lot coverage, as defined in the Town Zoning Ordinance, of the property beyond the 40% floor area ratio and the 35% lot coverage permitted by the Town Code and the Commission finds as follows:

- The proposed conversion of the accessory structure from a storage/laundry room
 to a bedroom and bathroom with its use limited by a recorded deed restriction to
 prohibit utilization of the 299 square foot as a separate second living unit will not
 constitute a grant of special privilege and shall not contravene the doctrines of
 equity and equal treatment. Other similar Use Permits have been granted
 throughout the Town.
- 2. The conversion of the existing accessory structure to living space will not include the installation of any additional windows facing the neighborhood property and the removal of kitchen will minimize the potential for the structure to be used as a separate living unit that might impact parking in the neighborhood and/or increate traffic. Therefore, approval of the Use Permit as conditioned will not cause unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
- 3. The upgrade and modernization of the accessory structure will allow the owners a substantial use of their property and is similar to the use of other residentially zoned properties with accessory structures used for living space.
- 4. The use permit is not contrary to the objectives, goals and standards set forth in the Town Zoning Ordinance and the findings required by Town Code §17.032.040 for a conditional use permit.



WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

- 1. This approval is limited to the development illustrated on the plans prepared by Rich Dowd, architect, pages A1.02 (dated 2/29/12), A-9 (dated 10/11/11) and A2.02 (dated 2/29/12).
- Prior to issuance of a building permit the owners shall sign, have their signatures
 notarized and then record a deed restriction indicating the accessory structure
 shall not contain a kitchen and shall not be used as a separate second living unit.
 This document shall be prepared by the Department of Planning and Building
 Services.
- 3. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
- 4. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-17. Any construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-17 will result in the job being immediately stopped and red tagged.
- 5. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release. and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include. but not be limited to, suits, damages, judgments, costs, expenses, liens, levies. attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that

- the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
- Prior to the project final the Department of Planning and Building Services shall verify that no improvements remain in the accessory structure that may be construed to a be kitchen. The kitchenette sink shall be replaced with a utility sink.

Ross Valley Fire Department Conditions:

- All smoke detectors (and there may only be one) in the accessory structure shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in the main room/bedroom.
- 2. A carbon monoxide alarm shall also be provided in the accessory structure.
- 3. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan is available online at Rossvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.
- 4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible front he street, additional numbers are required. Residential numbers must be internally illuminated (backlit, placed next to a light or be reflective numbers. If your project is a new house or substantial remodel, the numbers may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only be breaker so it will remain illuminated all night. If not currently installed they must be installed as part of the project.

Marin Municipal Water District

- The proposed conversion of 469 square foot shed into a bedroom and fill bathroom will not impair the District's ability to continue service to this property provided the newly created living space is not a separate second living unit.
- 2. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
- 3. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

If approved, a Sanitary District permit must be obtained from the Ross Valley Sanitary District prior to issuance of the building permit. The District will place a hold on the

property once the building permit is issued until the District's permit and sewer requirements are fulfilled pertaining to the private side sewer/lateral.

Miscellaneous Conditions

The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in writing to the Department of Planning and Building Services.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does approve the Conditional Use Permit Application No. 15-17 and allows the conversion of the 469 square feet accessory structure into conditioned living space at 132 Wood Lane subject to the implementation of the above listed conditions.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of June, 2015, by the following vote:

AYES: NOES: ABSENT:		
Attest:	Chair, Philip Green	
Jim Moore, Director of Plant	ning and Building Services	

PROJECT DESCRIPTION:		•
1163 8-8-	FOR ACCESSORY	↑ ¬ ↑ ¬ ↑ ¬ ↑ ¬ ↑ ↑ ↑ ↑ ↑ ↑ ↑ ↑ ↑ ↑ ↑ ↑
		STRUCTURE
to be used	FOR ADDITIONA	L BEROOM

GENERAL INFORMATION (if	applicable):	
Item	Existing	Proposed
Lot size	25,420 sf	25,420 Sf
Size of structure(s) or	House = 1,626	
commercial space (square feet)	STUDIO = 469	NO CHANGES
Height and No. of stories	HOUSE - 2 STUDIO I	no changes
Lot coverage	20%	no chambes
No. of dwellings units	l	NO CHANGES
Parking ¹ No. of spaces	2*	NO CHANGES
Size of spaces		NO CHONOGOS
		16 AND GARAGE AVAI
Amount of proposed excavation	Excavation = NA	Fill= NA
and fill	L	
finished height above grade and	is the land area covered by all buil all impervious surfaces except driv 9' wide by 19' long by 7' high. Do n	veways.
Restrictions: Are there any dees so, what are they? NONE	d restrictions, easements, etc. th	at affect the property, and, if
Marla Fledlynd Signature of Property Owner	1 C Sjo	mature of Applicant
4/29/15	4.	29.2015
Date	Date	
Planning Department staff is avai	lable by appointment between 8:30	0 a.m. and 12:00 noon
and 1:00 p.m. and 5:00 p.m. Mondo (415) 453-1584	ay through Thursday at 142 Bolina	s Road, Fairfax, CA.

ATTACHMENT B

Use Permit application attachment page 1

Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- > Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- > If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical of economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

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100 L)530_	FOR AN	A	X)III	OPPL	BE	DROOM

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

> The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

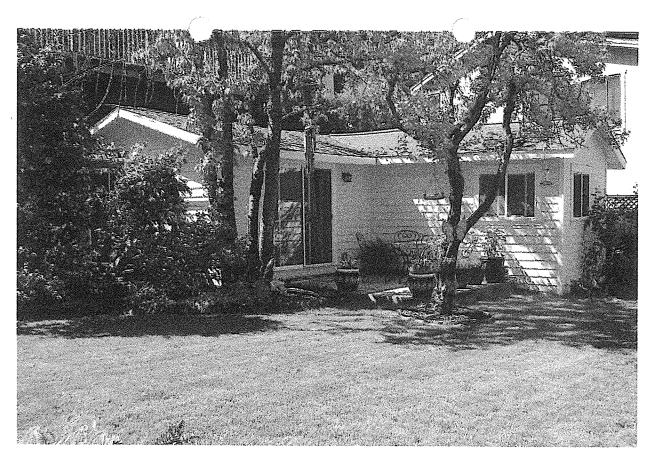
BATHROOM, MEETS CURRENT CODES AND FULLY SPRINKLEROD

The development and use of property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

SUBMITTED LETTERS OF APPROVAL

Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town.

YES, NOT CONTRACT.

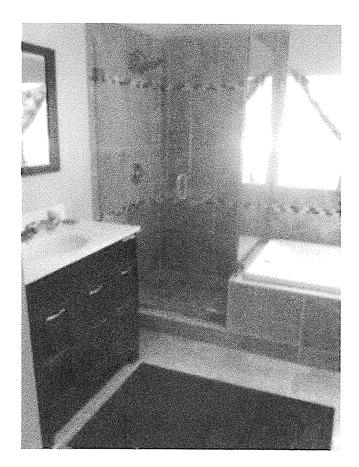


Yard View from Main House



Interior View





Bathroom View



MAY 0 4 2015

RECEIVED

To Whom It May Concern,

This is in regards to the property located at 132 Wood Lane, Fairfax.

We live directly across the street from the above named property, at 137 Wood Lane. We have lived here since April of 1976.

The detached structure at 132 Wood Lane has been there since before we moved onto Wood Lane. It has always has plumbing. Superior Court Judge Charles Peery and his wife Virginia, who owned the property before John and Marla Hedlund, used this structure (they called it the dormitory) for many purposes. One of the main uses was as a sleeping and play area for their children and their friends when they had sleepovers.

The Hedlunds are a wonderful asset and addition to our neighborhood. They create a positive, safe, loving environment.

Please feel free to contact us with any questions or concerns.

Thank you.

Art and JoAnn Black

137 Wood Lane, Fairfax

art + Julun Black

454-4572

Dear Town Council,

I am writing to you to support the granting of a use permit for

John and Marla Hedlund"s "Dormitory" building. Through the years.

many family members and friends have slept in this little cottage for

parties and visits. The main house is small as many of the summer cottages

are in the area and having this little building allows Grandma and Grandpa

a little place to sleep and be near the grandkids at the same time.

As a direct next door neighbor this poses no inconvenience to us.

Thanks for your consideration in this matter and many others.

Respectfully,

Jim McDermott manager

Marin Stables 4-26-2015

John Leimer and Suzanne Quentin 130 Wood Lane Fairfax, CA 94930

To Whom It May Concern,

This letter is in support of our neighbors at 132 Wood Lane, John and Marla Hedlund. Directly next door, we have no issues or concerns with their ancillary structure or the improvements they have made to the property. In fact, they have done an amazing job in upgrading our street and community. It was in complete dishevelment, like the rest of the property, when they acquired it.

From what we understand, it has been there for some 50 years and was used by the previous family as a playroom, sleeping quarters, etc. But it needed some love to regain its function. This structure is an integral part of the wonderful property.

We support this structure, their improvements, and any use they see fit for it.

Sincerely,

Suzanne Quentin and John Leimer, neighbors

M John Janver

RD ARCHITECTURE

27 Creek Rd. Fairfax CA 94930 (415) 256 9131

Date: May 22, 2015

Re: Hedlund - 132 Wood Lane Accessory Structure Use Permit vs Second Unit

To:

Linda Neal - Principal Planner

Town of Fairfax Planning Department

Fairfax, CA 94930

The Hedland's are applying for a use permit to legalize an existing accessory structure currently used as an additional bedroom/bathroom. The existing space has a utility sink but no kitchen appliances, fixtures, or cabinets. The recently renovated home has three small bedrooms for a family of four and the benefit of having an approved accessory bedroom/bathroom is quite beneficial for visiting family members and friends. The Hedland's are requesting a Use Permit instead of submitting for a Second Unit due to the cost burdens associated with creating a legal second unit as outlined below. Estimated costs do not include full costs for building upgrades for exterior work or interior improvements to kitchen, bath, or bedroom in order to meet current codes nor preparing a complete set of documents for permit approvals.

Agency or Town of Fairfax requirements	Scope of Work	Permit or Engineering Costs	Estimated Installation Costs
A. PG&E	Provide new service and meter	\$1,000	\$5,000
B. MMWD	Provide new water meter and service	\$9,000	\$5,000
C. Ross Valley Sanitary	Provide new lateral and connection*	tbd	\$9,500
D. Ross Valley Fire Department	Provide fully sprinklered building	\$500	\$2,500
F. Town of Fairfax	Planning and Building Fees	\$811 / \$2,000	tbd
G. Town of Fairfax Parking	1 onsite parking spaces req'd Encroach Permit and Curb cut approval required	\$253 \$1,125	\$7,500
	Totals	\$14,689	\$29,500

^{*}Existing sewer lateral can be used but will most likely fail a pressure test and require replacement if the cost of creating a second unit exceeds \$75,000.