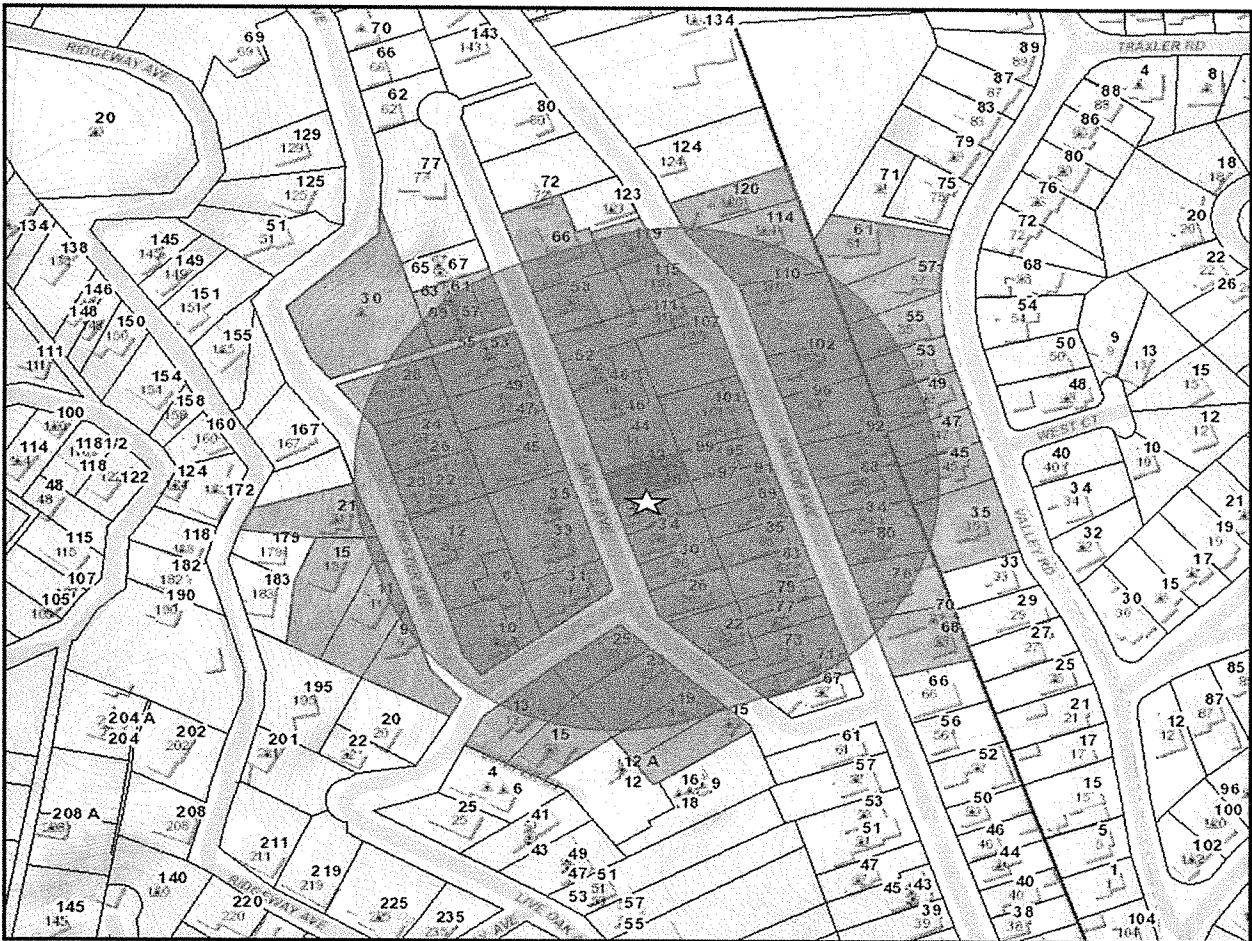


**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** August 21, 2014  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION:** 38 Maple Avenue; Assessor's Parcel No. 001-204-33  
**ZONING:** Residential RD 5.5-7 Zone  
**PROJECT:** Addition to a single-family residence  
**ACTION:** Use Permit; Application # 14-27  
**APPLICANT:** Darlene Gerson, G-Family Construction  
**OWNER:** David and Erin Noble  
**CEQA STATUS:** Categorically exempt, § 15301(e)(1)



**38 MAPLE AVENUE**

## BACKGROUND

The 4,000 square foot, 41 foot wide site has an average slope of 8% that runs north to south with the slope of adjacent Willow Avenue. The 1,244 square foot, 1 bedroom, 2 bath, residence, was constructed in 1909 and includes a 209 square foot, 1 car garage.

The current owners purchased the property in 1998 and abated an illegal second unit that had been constructed in the lower level of the structure.

## DISCUSSION

The project encompasses enlarging the dining room and addition a closet to the living room (50 square feet) and expanding and converting the office into a master bedroom on the second floor of the residence (67 square feet). The project increases the residence by 117 square feet to a 1,361 square foot residence. The project includes adding a bedroom increasing the residence from a 1 bedroom to a 2 bedroom house.

The project complies with the regulations set forth in the Residential RD 5.5-7 Zone District where the property is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	12 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5 ft, 2 stories
Existing	38 ft	22 ft	60 ft	2.5 ft and 8 ft	10.5	.27	.38	17.5 ft, 2 stories
Proposed	same	same	Same	same	same	.31	.38	17.5 ft, 2 stories

The project requires the approval of the following discretionary permit:

### A Use Permit:

Town Code § 17.084.050 requires that projects on parcels that don't meet the minimum 5,500 square foot size and 60 foot width requirements obtain approval of a Use Permit from the Planning Commission. The parcel is 4,000 square feet in size and 41 feet wide so the project requires a discretionary Use Permit.

In reviewing an application for a Use Permit the Commission must be able to find that the proposed project will not result in a structure that is out of scale with the project site

or out of character with the other neighborhood residential development.

Similar properties in the neighborhood have houses varying in size from an 841 square foot, 2 bedroom, 1 bath house on a 4,000 square foot lot (34 Maple) to a 2,120 square foot, 3 bedroom, 2 bath house on a 4,000 square foot lot (62 Chester). Therefore, the proposed 1,361 square foot, 2 bedroom, 2 bath house on this 4,000 square foot site is not out of character with the neighborhood and is in scale with the site.

### **A Parking Variance:**

Town Code § 17.016.040 indicates that the total amount of construction, alteration or enlargement on any non-conforming building or any non-conforming site shall not affect more than 50% of the floor area of the building or result in the addition of a bedroom unless the parking is brought into conformance with current standards or a parking variance is granted by the Commission.

The property and structure are non-conforming for all of the following reasons: Parcel size and width is substandard, the side setback on the southern side of the house does not meet the minimum required 5 feet, the lot coverage is already at 38 % while the code allows only a 35% lot coverage and the required parking spaces are in tandem with each other and partially located within the 5 foot side yard setback where parking is prohibited

The project results in the addition of a bedroom to a non-conforming structure on a non-conforming lot and requires the approval of a parking variance to allow the bedroom expansion with the existing non-conforming tandem parking configuration in the side setback.

The requested exception to the parking requirements is not to decrease the number of spaces from the 2 that are required on site but to allow the 2 spaces to be in tandem with each other, with one space in the garage and 1 space in the driveway in front of the garage. The driveway is long enough to accommodate a 3<sup>rd</sup> vehicles and the required guest parking space is available along the property frontage in the Maple Avenue right-of-way.

The addition of 1 bedroom to the house when the site provides parking for 3 vehicles will not result in the parking of additional vehicles in the street. Parking of vehicles partially within 5 foot southern side setback will not negatively impact the nearest neighboring property at 36 Maple because the driveway parking is adjacent to their garage and not any interior living spaces or outdoor living spaces.

## **Other Agency/Department Comments/Conditions**

### **Ross Valley Fire Department**

1. All smoke detectors in the residence 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.
2. Carbon monoxide alarms shall be provided.
3. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Obtain approval of a Vegetative Management Plan (VMP) in compliance with Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

### **Marin Municipal Water District**

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

### **Sanitary District**

1. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.
2. The project will require a connection permit from the Sanitary 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 lateral needs to be tested in the presence of a District Inspector and be found to meet the current District requirements.
3. If the project is approved the applicant shall contact the District to arrange for a

District Inspector to approve the existing installation or to approve plans for the proposed installation.

Note: the Fairfax Police, Public Works and Building Departments had no comment on the project.

## **RECOMMENDATION**

Move to approve application # 14-27 based on the following findings and subject to the following conditions:

### **Recommended Findings**

#### **Use Permit Findings**

1. The proposal for the 117 square foot expansion will not result in a residence that is out of scale with the 4,000 square foot lot or out of character with the neighborhood. 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.
2. The proposed additions will not encroach into the required setbacks and will not exceed Floor Area Ratio .40 limitation for the RD 5.5-7 Zone. The addition also will comply with the height limits and will not increase the site lot coverage (the master bedroom addition extends out over a patio area already included in the lot coverage calculation). Therefore, 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.
3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the Town Zoning Ordinance, Title 17.
4. The addition will not extend beyond the foot print of the existing house or beyond areas of the yard that are already developed with hardscape. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and the project will not have any significant impacts on the site or the neighbors.

#### **Parking Variance**

1. The parking on the site currently exceeds that required by the Parking Ordinance for single-family sites and the configuration of the tandem parking partially in the

side setback has not impacted parking in the neighborhood or the adjacent properties. Therefore, the addition of a bedroom will not result in anticipated future traffic volumes that would reasonably require strict or literal interpretation and enforcement of the parking ordinance

2. Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.
3. Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

#### Recommended Conditions

#### **Planning Conditions:**

1. This approval is limited to the development illustrated on the plans prepared by Darlene Gerson, G-Family Construction, pages A.1.1, A.2.1, A.3.1, A.3.2, A.4.1, A.4.2, A.4.3 and A.4.4, dated 6/26/14.
2. Prior to issuance of a building permit the applicant or his assigns shall:
  - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
    - Construction delivery routes approved by the Department of Public Works.
    - Construction schedule (deliveries, worker hours, etc.)
    - Notification to area residents
    - Emergency access routes
    - Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking
  - b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).
  - c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a bond or letter of credit equaling 100% of the estimated construction costs.

- d. If required by the Building Department, the foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Engineer.
  - e. If required by the Building Department the grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project engineer.
  - f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
3. During the construction process the following shall be required:
- a. The project engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.
  - b. Prior to any concrete form inspection by the building official, the structural engineer shall field check the forms of the foundations and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
  - c. The building official shall field check the concrete forms prior to the pour.
  - d. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
  - e. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
4. Prior to issuance of an occupancy permit the following shall be completed:

- a. The project engineer shall field check the completed project and submit written certification to the Town Staff that the foundation elements have been installed in conformance with the approved building plans.
  - b. The Planning Department shall field check the completed project to verify that the construction reflects the design approved by the Planning Commission and to verify that all design review and/or planning commission conditions have been complied with including , if applicable, installation of landscaping and irrigation.
5. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
6. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."
7. 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 # 14-27. **Any** construction based on job plans that have been altered without the benefit of an approved modification Use Permit 14-27 will result in the job being immediately stopped and red tagged.
8. Any damages to Maple or Willow Avenues resulting from construction activities shall be the responsibility of the property owner. The owner or contractor shall videotape or otherwise document as approved by the Public Works Director the existing condition of the roads in the vicinity of the site prior to starting construction of the residence. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.
9. 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.

#### **Ross Valley Fire Department Conditions:**

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector 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.
2. A Vegetative Management Plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan. Please submit directly to the Fire Department for review.
3. Carbon monoxide alarms shall be provided.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

#### **Marin Municipal Water District**

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

#### **Sanitary District**

1. A new sewer connection will be and the size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirements 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 found to meet all current District requirements. The cost will be based on the number of fixtures.

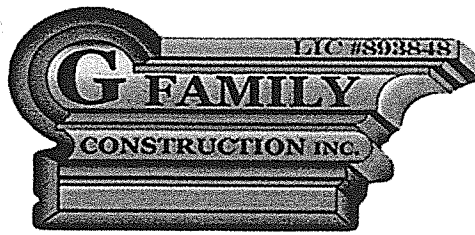
2. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

### **Miscellaneous Conditions**

1. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
2. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.

### **ATTACHMENTS**

Exhibit A – Applicant's supplemental information



TOWN OF FAIRFAX

JUL 10 2014

RECEIVED

July 7, 2014

The Town of Fairfax  
Attn: Planning Commission  
142 Bolinas Road,  
Fairfax, CA 94930

Dear Fairfax Planning Commission,

This Use Permit letter is to accompany the plans for submittal for 38 Maple Avenue, parcel APN 001-204-33, herein referred to as the 'Noble Residence'. Due to the fact that this property does not meet the minimum 5,500 square foot size and 60-foot width requirements, we are required for review and approval of a Use Permit for the proposed expansion on this substandard sized lot.

Our design team has taken great steps to insure that this project does not disrupt the surrounding neighborhood and residential areas with the following precautions. The 'Noble Residence' has been designed so that the house is not seen as obstructive from the street. This is shown within the plans where the new expansions do not go past the required setbacks. The master bedroom expansion does not encroach into the backyard setback, and the combined side yard falls within the 15' foot setback. Lastly, we will be enclosing the front porch side that faces the West, we will be leaving a 3' foot corner to abide by the 5' foot setback.

The approval of the use permit is not granted of special privilege and is not contravening the doctrines of equity and equal treatment. We have gone through great extents to keep the original characteristics of the era of this home. We accomplished this by matching the existing siding, trim, and windows, as well as matching other enclosed porches seen among other residences on Maple Avenue.

The 'Noble Residence' proposed remodel was designed so that it does not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, cause any adverse physical or economic effects thereto, or create excessive burdens in the use and enjoyment thereof. We have taken this into account by matching the original style and era of the Noble Residences home. We have abided by all of the legal set backs so that we are not encroaching into the property line.

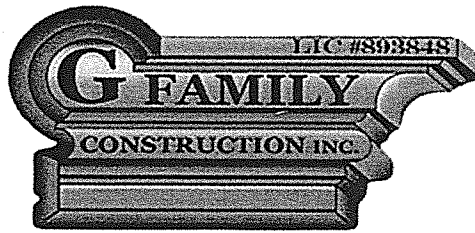
As seen on the master plan, the proposal of the 'Noble Residence' expansion is not conflicting to those objectives, goals or standards pertinent to the particular case. We have abided by all of the legal setbacks, conformed to the original style and era of the home by matching existing materials as well as to match the residences of Maple Avenue.

Best Regards,

-----  
**David Grabham**  
G Family, Inc. (General Construction)  
G-Design, LLC. (Design Firm)  
CEO/Designer  
Gfamilyconstruction.com (Website)  
[David@gfamilyconstruction.com](mailto:David@gfamilyconstruction.com) (Email)  
415-261-7643 (Cell)

**EXHIBIT #**

**A**



TOWN OF FAIRFAX

JUL 10 2014

RECEIVED

July 7th, 2014

The Town of Fairfax  
Attn: Planning Commission  
142 Bolinas Road,  
Fairfax, CA 94930

Dear Fairfax Planning Commission,

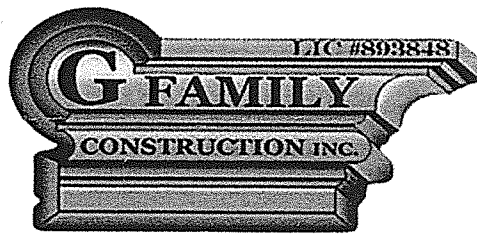
This letter is to accompany the plans for submittal for parcel APN 001-204-33 Maple Avenue herein referred to as the 'Noble Residence', for planning in order to take the front uncovered porch area and add the square footage into the dining room, and turn the existing office space into the new master bedroom and adding an additional 98 Sq. Ft.

I have revised the plan set as follows

- The Plot Map and site plan and pages A.3.1 and A3.2 depict the same setbacks for the project as well as on each page. The plot map has been revised so that it now has a shown scale on the bottom of the map measured as 1" = 3/16". The setback measurements are included on each page and illustrated where the front porch and master bedroom expansion is.
- Use Permit is attached with this letter, the permit is required by the Town of Fairfax since the parcel lot is 4,000 square foot, 40 foot wide and does not meet the minimum 5,500 square foot size and 60 foot width requirements.
- Variances; I was informed that this project might have to apply for a variance, depending on the side yard setbacks. I have revised the plans so that the combined side yard set back is now 15 feet, with the new master bedroom expansion. To abide by the side yard set back we will not be doing work to the existing porch wall facing the south side which was built with the original structure. We will be leaving 3 feet of the existing porch in that corner porch to abide by the new 5' foot setback. We have attached a letter from the neighbors from 36 Maple Avenue who have given written approval of full support of the project.
- Lot coverage; for clarification to this comment, there is no proposed patio work being done on this parcel. We are relocating the existing concrete stairs at the existing grade wall because the master bedroom expansion encroaches on head height. Impervious surfaces have been recalculated to meet the standard set forth by the Town of Fairfax.

Best Regards,

-----  
**David Grabham**  
G Family, Inc. (General Construction)  
G-Design, LLC. (Design Firm)  
CEO/Designer  
Gfamilyconstruction.com (Website)  
[David@gfamilyconstruction.com](mailto:David@gfamilyconstruction.com) (Email)  
415-261-7643 (Cell)  
415-444-0573 (Office/Fax)



TOWN OF FAIRFAX

MAY 27 2014

RECEIVED

May 1<sup>st</sup>, 2014

The Town of Fairfax  
Attn: Planning Commission  
142 Bolinas Road,  
Fairfax, CA 94930

Dear Fairfax Planning Commission,

This letter is to accompany the plans for submittal for parcel APN 001-204-33 Maple Avenue herein referred to as the 'Noble Residence', for planning in order to take the front uncovered porch area and add the square footage into the dining room, and turn the existing office space into the new master bedroom and adding an additional 98 Sq. Ft.

Our design team has taken great steps to insure that this project does not disrupt the surrounding neighborhood and residential areas with the following precaution.

- The 'Noble Residence' has been designed so that the house is not seen as obtrusive from the street or by the adjacent neighbors. The new addition is designed so that it still fits in the style of homes of the era, as well as fitting with the style of homes surrounding the neighborhood, as there are a couple homes that have enclosed their own front porch. We have taken into account that the square footage taken from the front porch will not go over the existing footprint.
- The new roof for the master bedroom addition in the back of the house, will still maintain a flat roof with tar & gravel, and will be raised 1' from the existing roof line. This still maintains the original character from the house, while giving the front and back roof definition of height differences.
- There is no landscape work that will be done to the "Noble Residence".
- Both additions to the front and the back of the house, will not obstruct any existing trees on site.
- Exterior light fixtures will remain existing; the only work that will be done is moving the light fixtures next to the existing front door.
- Fascias, trim, siding, railings and trellis are all designed to match the existing material, so that the materials still conform to the style and era of the home.

Best Regards,

-----  
**David Grabham**  
G Family, Inc. (General Construction)  
G-Design, LLC. (Design Firm)  
CEO/Designer  
Gfamilyconstruction.com (Website)  
[David@gfamilyconstruction.com](mailto:David@gfamilyconstruction.com) (Email)  
415-261-7643 (Cell)  
415-444-0573 (Office/Fax)

## SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

### DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

1. Exterior finish: To match existing - 1x8 V-rustic Siding
2. Proposed exterior wall color(s): mint green
3. Proposed exterior trim color: white
4. Proposed exterior window color: white
5. Proposed roof material and color: tar and gravel
6. Special features: NA

7. Lot Coverage: 944.5

8. Number of existing parking spaces and their sizes: 3

9. Number of proposed parking spaces and their sizes: 3

### DESIGN REVIEW APPLICABILITY

#### 1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

Additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

#### 2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

#### 3. 50% remodels of additions to residential properties