

TO:	Fairfax Planning Commission
DATE:	May 15, 2014
FROM:	Jim Moore, Director of Planning and Building Services Linda Neal, Principal Planner
LOCATION:	76 Spruce Road; Assessor's Parcel No. 001-142-23
PROJECT:	Residential second unit and garage conversion
ACTION:	Use Permit and Variances; Application 14-17
APPLICANT:	Gabriel Harris
OWNER:	Same
CEQA STATUS:	Categorically exempt, § 15301(a), 15303(a) and (e) and 15305(a)



BACKGROUND

The 7,700 square foot site has an average slope of 30% and is located on Spruce Road just before the section that is posted for one way traffic only traveling north towards Tamalpais Road. The site is developed with a 995 square foot, two bedroom, 1 bath residence that was constructed in 1930. In 1988 one of the previous owners obtained a setback variance to rebuild the two car garage/workshop on the site within the front and combined side yard setbacks.

In 2002 the owner obtained a variance to legalize an unpermitted utility room addition to the garage/workshop structure which rendered one of the two covered garage spaces inaccessible. At that time the owner indicated the structure was being used as an office/hobby/pottery studio.

In August of 2012 a neighbor filed a complaint that the accessory structure had been converted into a residential second living unit. Staff notified the owner of the alleged violation and asked to inspect the property in late August of 2012. After the inspection the owner was advised that the accessory structure had been improved to the point where it constitutes a second unit. The owner was advised that the unit either had to be abated by removal of the kitchen and the raised floor in the 1 car garage area and restoration of the garage door; or he would have to file for and obtain a Residential Second Unit Use Permit from the Planning Commission. The owner advised staff that he would be filing an application to legalize the unit and he began working to obtain the required survey information, plans and noticing materials.

At the October 2013 Town Council meeting the neighbor who filed the original complaint commented on the second unit in addition to problems with drumming and dog barking noise, garbage strewn around the property and drainage problems with the culvert that runs under the driveway. The Council scheduled the matter for the November 6, 2013 meeting based on the comments. At that meeting the Council directed the Planning Department staff to continue to work with the owner to help him complete his application so that it was filed by the January 13th, 2013 Council meeting. The applicant submitted the application on January 14, 2014. Staff has been working with the applicant since then to complete the submittal. The application was deemed complete on April 24th, 2013 and scheduled for the May 15, 2014 meeting.

The applicant no longer owns a dog. The neighbor continues to complain that the owner's drumming is too loud. While the Town does have a noise ordinance, the neighbor would need to contact the Police Department during the occurrence to determine if the sound violates the noise ordinance. The neighbor has also expressed concern about the additional noise that could be generated from the second unit. One suggestion for the Planning Commission to consider is to ask the applicant where they practice their drumming and if they would be willing to install improvements to mitigate the noise. In essence, the applicant would be making a "good gesture" in recognition of the neighbor's concerns. The Planning may want to consider if a fence is warranted to both address the trash and sound issue concerning the site.

Public works ran a robot video camera through the culver underneath the drive and has determined that it is in good shape. If the culvert becomes blocked in the future, concerned persons should contact the Public Works Department.

DISCUSSION

The 679 square foot, one bedroom unit is located in the accessory structure that previously contained a one car garage area, a studio/workshop area and a laundry/utility room. The utility room has been converted into a kitchen and a bathroom has been constructed at the rear the bedroom that was previously the garage.

Town Code Chapter 17.048 regulates second units and the requirements include but are not limited to the following (staff comments are in bold, italicized font):

1. Either the primary unit or the second unit must be owner occupied. ***The owner lives in the main house.***
2. The unit may not be more than 700 square feet in size or 30% of the size of the main unit which ever is more restrictive and they are limited to studio or 1 bedroom units only. ***The 679 square foot unit is larger than the minimum 320 square feet allowed by the Code because of the small 955 square foot size of the house. However, it is smaller than the permitted maximum 700 square feet.***
3. Second units may be attached to or located within the main unit or they can be detached in an accessory structure. ***The second unit is contained within the detached accessory structure that was constructed as a garage/workshop.***
4. The site must be able to accommodate parking for the main residence as well as the second unit on the site and the second unit parking may not be in tandem with any of the parking for the main house. This requires the provision of four, on-site, 9 foot by 19 foot parking spaces. ***The site accommodates the parking for the main house in compliance with the zoning ordinance and an easement exists for the second unit space to be located at the end of an existing second driveway, partially on the neighboring property at 90 Spruce Road.***
5. The second unit shall meet the setback, lot coverage, floor area ratio and height regulations for the zone district in which they are located or the Commission can grant exceptions (variances) the regulations. 76 Spruce Road is located in a Residential Single-family RS 6 Zone. ***The unit is located in a structure that was constructed with variances originally. No new construction is proposed. The development will not result in the property being out of compliance with the FAR, height or lot coverage limitations.***

6. Construction and Fire Codes must be complied with. ***Compliance with all other agency conditions is included as a condition of approval.***
7. The project site must meet the minimum size and width requirements for the property slope. ***There are very few parcels in Town that comply with the minimum size and width requirements which were adopted in the 1970's. The Code allows the Commission to grant use permits for development/modification/improvements of these parcels.***

The Commission and the public needs to be aware that the intent of Assembly Bill 1866 is to provide for the creation of second units and to limit local second unit ordinance provisions relating to unit size, parking, fees and other requirements so that they not be so "arbitrary, excessive or burdensome" so as to restrict homeowners from creating the units (Exhibit B – Government Code Section 65852.2, State Second Unit Law). The law required the Town to begin processing second unit applications ministerially as of July 1, 2003. The Town's response to this new legislation was to amend the second unit ordinance to allow the Director of Planning and Building Services to ministerially approve ***second units that comply with all the regulations.*** Units that do not comply with all the requirements still are required to obtain Planning Commission approval. The argument could be made that the Town did not make a good faith effort to accommodate second units since one of the requirements is that any property proposing to accommodate a second unit must meet the minimum size and width requirements based on its slope. This requirement alone results in almost every owner of a residential site in Town having to go through a discretionary public hearing and obtain Commission approval for a residential second unit.

The Town enacted a second unit amnesty program which was extended in 2010 but which has now expired. The program was underutilized largely due to the expensive requirement for sprinkler systems and parking and the onerous public hearing process.

In light of Assembly Bill 1866 and the adoption of the Town's own 2010 – 2030 General Plan which indicates the Town will consider ordinances encouraging second units, staff will be recommending the amendment of the Town's second unit ordinance and/or adoption of another amnesty ordinance to bring the Town regulations more into compliance with AB 1866 and the General Plan. We will be asking the citizens and the Commission and Town Council to consider:

- Eliminating the requirement that a parcel meet the minimum size and width requirements based on the slope. A substantial portion of all the parcels Town are substandard in size and/or width and subject to a public hearing process in order to make any modifications to their properties.
- Eliminating the need for the property survey to be recorded. Requiring a recorded survey can add anywhere from \$5,000 to \$10,000 to the cost of applying for a unit which is typically prohibitive for most owners (staff has verified these cost estimates with two different surveying companies). Staff plans to still

require survey information to show that structures and parking are on private property but would make the requirement that the survey be recorded only when deemed necessary by staff (i.e. in the case of property line dispute).

- Eliminating the requirement that a parcel provide all the parking for the main unit and 1 space for the second unit if the unit is located on a property with a slope of 30% or less that is within walking distance of public transportation.
- Increasing the unit size maximums and minimums to create more livable units.

Other amendments may also be proposed.

Discretionary Approvals

The legalization of the unit at 76 Spruce Road requires the following exceptions to the Zoning Ordinance and Residential Second Unit Ordinance:

A Variance to the Second Unit Size Limits: Town Code § 17.048.040(B) limits second units to a maximum of 700 square feet or 30% of the size of the main unit, whichever is more restrictive. The house is 955 square feet in size so the unit is limited to the minimum 320 square feet. The unit is 679 square and requires an exception to the unit size limit because it exceeds the permitted 320 square feet by 359 square feet. It does not exceed the 700 square foot maximum unit size and provides a more adequately sized unit. As mentioned above, when the second unit ordinance is updated, staff will be recommending that the size maximum and minimum be increased. Right now the 320 square foot minimum results in unit that is only slightly larger than a 1 car garage which is very small.

A Variance from the covered parking requirement and from the requirement that the parking for the main unit and the second unit be provided on site: Town Code § 17.048.040(D) of the second unit ordinance requires that any property where a second unit is requested must provide the required parking for the main house **and the second unit** on the project site. Two spaces for the main house are provided on site in the main driveway and the third required guest parking space is provided in the driveway, in tandem with one of the main house spaces as permitted by Code [Town Code §§ 17.052.030(A)(1)(c) and (A)(2)]. However, legalization requires the approval of the garage conversion to second unit living space leaving the property without the required 1 covered parking space. Providing a new covered space, due to the long, shallow and irregular shape of the site will result in a structure either being located in required setbacks or being located in the only usable private outdoor space for the site. The elimination of the covered parking requirement will not negatively impact the neighborhood parking because the site still provides the required parking for the house and unit.

The parking for the unit is provided in the second driveway at the rear of the accessory building. The space extends over the side property line onto the property at 90 Spruce

Road and therefore, requires a parking exception because it is located within the side yard setbacks of both 76 and 90 Spruce Road and is not provided entirely on the site.

The requirement for all the parking to be provided on site and for a property survey to show the parking is on site was the result of the excessive amount of time the staff was spending on reviewing and processing second unit applications where parking was proposed in the public right-of-way and applicants were trying to claim public property for their own use and that of their tenants. This is not the case with the parking proposed for this project. The space is entirely out of the right-of-way, will not take up parking currently in use by the neighborhood and is located 33 feet from the nearest residence at 90 Spruce Road. The applicant has demonstrated his right to exclusively use this space by submitting the property preliminary Title Report which contains the parking easement language on page 2 which is attached to the staff report as Exhibit E.

Parking is a problem throughout Fairfax due to many of the homes predating the automobile or having been built when a typical family had only 1 vehicle. The steep topography and narrow width of the roadways contributes to the parking problems.

Complaints have been received by the Town that the applicant's tenants sometimes park in on street parking spaces in front of their houses that they like to exclusively use. Unless a homeowner has spent \$10,000 or more to create an on street parking space by constructing a wall or parking structure and/or has gone through the Preferential Parking public hearing process, on street parking is not for their exclusive use and can be used by neighbors or the general public on a first come first serve basis (Town Code Chapter 10.24).

The project does not require Design Review approval because legalization of the unit will not require any exterior changes to the accessory structure.

The large 7,700 square foot size of the site enables the conversion of the garage to living space without increasing the FAR above the permitted .40. The conversion will increase the FAR from .18 to .21.

The site provides parking for 5 vehicles which is more than the number required by code and the unit is within walking distance of the public library, local schools, downtown Fairfax and public transportation. The fact that the existing residential second unit ordinance is onerous is evidenced by the fact that only two second units were processed and approved during the two year period from the end of 2007 through early 2010 when the Second Unit Amnesty Program was in effect. The Town has been charged by the state to provide affordable housing and the proposed unit will help the Town meet its affordable housing needs while providing a unit that complies in spirit with its adopted second unit ordinance and AB 1866.

A Recorded Survey

The applicant is requesting relief from the recorded survey requirement of Town Code 17.048.040(D). The applicant has submitted boundary survey information prepared by Susan D. Ruschmeyer, P.L.S of Pacific Land Survey's. Staff has determined that the survey information provided is accurate and adequate to protect the property rights of the Town and neighboring property owners and to show the location of the parking and structures.

Variances in General

Town Code § 17.048.090(B) gives the Planning Commission the authority to grant exceptions (Variances) to the Residential Second Unit Ordinance.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. A fire protection 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 deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. 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.
3. 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.
4. Carbon monoxide alarms shall be provided.
5. 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. There has not been a water entitlement established for the proposed second living unit. Payment of a connection fee is required prior to granting water service to the second 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 required it shall be installed and inspected 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. 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.

Fairfax Police, Public Works and Building Departments

The Fairfax Police Department and the Building Department had no comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 14-17 based on the following findings and subject to the following conditions:

Recommended Findings

Use Permit

1. The approval of the use permit shall not constitute a grant of special privilege because the proposed second unit is a one bedroom unit which results in built in constraints to the number of persons that can comfortably live and will keep the rent affordable by its small size. The limited size and the fact that the property provides the required number of parking spaces results in the granting of the use permit not contravening the doctrines of equity and equal treatment.

2. 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. The proposed second unit is in accordance with Policy H-5.1.2 of the General Plan which indicates that the Town shall allow for the construction of different housing types to increase the supply of low and moderate income housing. The site and unit comply with the intent of the Zoning Ordinance regulations for the Residential RS 6 Zone District and do not change the appearance of the single-family home site. Therefore, 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.
4. The unit will provide an affordable living unit that can provide housing to the Fairfax workforce that might otherwise have to commute from out of Town to work here. Therefore, said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community

Variances

5. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the covered parking space regulation or the regulation prohibiting parking in side yard setbacks.
6. Granting of the variance to allow a portion of the second unit space to be provided on the neighboring site and to grant an exception to the covered parking requirement 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.
7. Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of the zoning ordinance.

Recommended Conditions

1. Separate garbage service shall be obtained for the second unit from the service for the main house.
2. Prior to issuance of a building permit the applicant or his assigns shall provide evidence that they have complied with the conditions, and have been approved by the Ross Valley Fire Department, Marin Municipal Water District and the Ross Valley Sanitary District.

3. The use permit will not be in effect and the unit will not be legalized until the applicant has obtained a building permit and inspections for the kitchen, bathroom and bedroom conversions.
4. Any changes, modifications, additions or alterations made to the approved building permit project plans will require a modification of Application # 14-17. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 14-17 will result in the use permit being scheduled for reconsideration at a future Planning Commission meeting.
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.
6. Conditions placed upon the project by outside agencies may be eliminated or amended with that agencies written notification to the Planning Department prior to issuance of the building permit.
7. The applicant shall maintain the premises in a neat and attractive manner at all times and such maintenance shall include, but not be limited to exterior building materials, signage, windows, the planters and planting beds, the ground, patio and pavement surfaces.
8. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include but are not limited to, the Noise Ordinance, the Garbage and Rubbish Disposal

Ordinance, the Stormwater Management and Discharge Control Program Ordinance and the Clean Indoor Air and Health Protection Ordinance.

9. Conditional Use Permits are revocable. Two complaints that the conditions of approval above are being violated, from persons living at different addresses, will result in the staff scheduling the Use Permit for a public hearing to revisit the Use and Conditions of approval.

ATTACHMENTS

Exhibit A – Staff report and minutes from the November 6, 2013 Town Council meeting

Exhibit B – State Second Unit Law

Exhibit C – Applicant's supplemental information

Exhibit D – Other Agency/Department comments/conditions

Exhibit E – Preliminary Title Report



TOWN OF FAIRFAX

STAFF REPORT

November 6, 2013

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner

SUBJECT: Discussion/consideration of the 76 Spruce Road regarding compliance with Town Code and site maintenance issues

RECOMMENDATION

Direct staff to continue: a) working with the applicant to complete his Residential Second Unit Use Permit application and b) monitoring the property for compliance with Town code.

DISCUSSION

The Council requested this item be agendaized for discussion based on comments received from a neighbor at the October Council meeting. The neighbor that requested this item filed a code enforcement complaint on 8/4/12 citing an illegal second unit, issues with a barking dog, drumming, operation of a drum business and drumming lessons, and miscellaneous garbage strewn around the property.

In a letter dated 8/16/12, staff requested the owners arrange a time for staff to inspect the property to determine if any code violations existed. Staff inspected on 8/5/12 and determined that there is an illegal residential second unit in the garage/workshop accessory structure. In a letter dated 9/15/12, the owners were advised that the site needed to be cleaned up and the unit needed to be abated or be legalized.

Staff has been in communication since that time with the owner who has retained a surveyor and completed a survey of the property. This is typically the most costly portion of the application process. He is also working on having drawings done and plans to submit his application for a second unit shortly.

Staff has re-inspected the site several times and does not believe that the debris or items being stored there have reached a level where the property constitutes a health hazard or danger to the residents or neighbors.

FISCAL IMPACT

16 hours of staff time at a cost of \$2,215.00 to date.

ATTACHMENT

Exhibit A - e-mail from owner of 74 Spruce Road

EXHIBIT #

A

Linda Neal

From: Gabriel Harris [REDACTED]
Sent: Wednesday, October 30, 2013 3:37 PM
To: Linda Neal
Subject: Linda, if it's not too late, please add notes

Linda, if it's not too late, please add these to the notes for upcoming town meeting:

Additional notes regarding 76 Spruce Road:

1. Owners fully intend to legalize unit, and have already spent \$2,500 on a land survey. We are waiting for additional funding from refinance, which is approved and scheduled to fund in November.

2. Letter from our adjacent neighbor @ 74 Spruce:

To whom it may concern. I live at 74 Spruce road but am unable to make the town meeting. Gabe and Pam are good neighbors who are always willing to help. When problems arise they are very open to hearing concerns and trying to make a situation better. I have never had a problem with noise from them. They did have a dog that barked often but she has passed away. Lance Martinez

I have not contacted other neighbors as of yet, but I have never received noise complaints other than dog issues, which ceased over a year ago when Samba passed away.

Thank you,
Gabe

Gabriel Harris
Rhythm Village
415.324.5400
[REDACTED]
www.RhythmVillage.net

Linda Neal

From: Pauline Bartholomew [pbart357@sbcglobal.net]
Sent: Tuesday, November 05, 2013 12:31 PM
To: Linda Neal
Subject: 76 Spruce Rd.

Pauline Bartholomew

85 Spruce Rd.

Fairfax, CA 94930

Re: 76 Spruce Rd.

Council Members:

I have several concerns about the property and owners of 76 Spruce Rd. My home is directly across the street from them, and I see it all.

The debris/trash scattered around the middle and side yards has gone on for years. My husband spoke with the owner several years ago, asking him to clean up his property. It improved for a few weeks but it always reverts back to the same neglected state. I don't think the owners care that the neighbors are being impacted by their lack of responsibility. I'm really glad I'm not trying to sell my house right now.

In 2010 the tenants of the illegal unit had a visitor who was leaving late at night—about 2 am. The driver proceeded to hit my car even though she was being guided out by the tenant. She was about to leave without putting a note on my car until my neighbor, who was awakened by all the commotion, came out to question her. If my neighbor hadn't been made aware of the collision I would have had no recourse but to absorb that cost myself (over \$1,000).

I am concerned about the noise factor of his drumming business, as well as the frequent, extra vehicular traffic that goes along with it. Parking is an issue on our street anyway, and his business compounds the problem.

I do not think the homeowner has a cooperative demeanor regarding these issues. His lack of movement towards legalizing his non-permitted unit speaks for itself.

I urge you to begin nuisance abatement procedures in order to protect my home, my neighbors' homes, and our quality of life on Spruce Rd.

Sincerely,

Pauline Bartholomew

William Addy
77 Spruce Road
Fairfax, CA 94930

RE: 76 Spruce Road

Council Members,

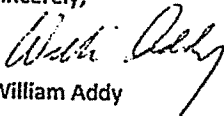
I am not able to attend the Nov. 6, 2013 Town Council meeting as I am current president of the Native Sons and we have our monthly meeting on the same evening. However, I would like to have my views and personal experience with the property and its' owners of 76 Spruce Road on record.

Spruce Road is a very narrow road with very limited parking for those of us without the benefit of a driveway. Most everyone on the uphill side of the road have one spot for parking (if that)—mine is a spot carved out of the hillside at the base of my property. I have, on more than one occasion, come home to find a car either parked in that spot or parked in such a way, at 76 Spruce Road, that it makes it very difficult for me to park or for vehicles to pass.

Garbage and miscellaneous debris is ever present in the front yard—it is not unusual for their garbage cans to be filled to overflowing only to have raccoons spreading it out into the yard and street. Days, sometimes weeks, will pass before it's cleaned up. Although I do not see it as easily, there is also a lot of debris and an open trailer of debris stored behind the "garage"—all easily seen from the street. I admit I am no expert, but I would think this brings down my homes' value and those of my neighbors as well.

It is my opinion that many of the parking problems are attributable to the non-permitted unit and customers/students patronizing the home business. As for the debris—a combination of the unit, business and a general lack of consideration. I urge you and the Town Counsel to direct the Building Department to begin nuisance abatement procedures and to educate the property owners on the parameters in which a resident can conduct a home business so as to not impact the quality of life of the surrounding neighbors.

Sincerely,


William Addy

November 6, 2013 Town Council minutes

Town Manager Toy reminded the Council that they would need to make the findings to grant the variance.

Councilmember Weinsoff suggested they give the applicant a winter grace period but he was of the opinion that the structure would need to be relocated.

It was the consensus of the Council to continue this item to the first meeting in May. The applicant agreed to a continuance.

Discussion/consideration of 76 Spruce Road regarding compliance with Town Code and site maintenance issues- Building Official

Building Official Lockaby presented a staff report.

Councilmember Weinsoff asked if the homeowner was running a drumming business out of the home and whether or not he had a business license. Building Official Lockaby stated he did not know if a business license had been issued.

Councilmember Coler noted the staff recommendation was to work with the applicant to obtain a Second Unit Use Permit and she asked if this included the idea of running a business out of the location. Town Manager Toy stated "yes" but the applicant has indicated to staff that he is not running a business from this location.

Mayor Reed opened the Public Hearing.

Mr. Gabriel Harris, property owner, stated he has a business that does drumming workshop but not from his residence. He has had a business license for "Rhythm Village" for about ten years. He fully intends to legalize the second unit and has spent \$2,500 on a land survey. He submitted floor plans to the Planning Department today.

Councilmember Bragman stated there have been complaints about garbage on the property. Mr. Harris stated he is trying to clean it up.

Councilmember Weinsoff stated there have been complaints about parking in the neighbor's parking spots. Mr. Harris stated he would be happy to post a sign.

Councilmember Goddard stated she was concerned about the cover over the creek and how this could be a safety issue. Mr. Harris stated the underground culvert has become an issue and he has had to clean it out numerous times. He has a grate and cover for the cleanout that was provided by the Public Works Department.

Building Official Lockaby stated the homeowner built over the creek, which is in the public right-of-way, to gain access to his house. The issue is maintenance of that access.

Mr. Tom Bruce, Fairfax Public Works Maintenance Worker, stated this area of Mr. Harris' yard has been a problem for years. The Public Works Department could install the grate so that it could be removed to facilitate clean out of the culvert.

Ms. Kim Turoid, Spruce Avenue, asked who would pay for installation of the grate and be responsible for it. Building Official Lockaby stated if the Town installs the grate then the Town would keep it clean. Ms. Turoid distributed information indicating there was a home business being run out of 76 Spruce Road. She stated there were parking and noise impacts due to the home business. She added that the property needs to be tidied up.

Mr. Steve Vanni, Chester Avenue, stated he was concerned about the precedent that is being set in terms of the Town installing a grate and taking care of a property owner's drainage.

Councilmember Bragman stated perhaps this issue should be addressed along with the Second Unit Permit Application.

Ms. Olive Bartholomew, Spruce Road, stated she lives across the street from the subject property. The yard is full of junk and is in a neglected state. She is concerned about the noise and extra traffic that results from the drumming business.

Mayor Reed closed the Public Hearing.

Councilmember Bragman stated this issue should be reviewed by the Council in January to make sure there is progress being made.

The Council took a 15-minute break at 10:10 p.m.

Traffic Impact Permit for 2001 Sir Francis Drake Blvd. for a combination Chevron Gas Station/Express Mile convenience store- continued to December 4th per Applicant's request

Mayor Reed noted that this item has been continued to the December 4th Council meeting.

Regular Agenda

Approval of the Notice of Completion for the Pastori Bank Stabilization Project- Town Manager

Town Manager Toy presented a staff report.

Mr. Greg Grubin, Project Engineer with CSW/ST2 engineers, made a Powerpoint presentation and discussed the history of the project. He stated the project went well and it was "built to last".

Councilmember Coler thanked CSW/ST2 for doing an amazing job of staying on track and on schedule.

Councilmember Bragman asked about the expected duration of the pipe lining and whether or not it would have to be replaced. Mr. Grubin stated it should last 15 to 20 years.

M/S, Coler/Goddard, Motion to authorize the Town Manager to issue a Notice of Completion for the Pastori Bank Stabilization Project.

AYES: All

Discussion/consideration of the status of the clean up of the property at 159 Willow- Building Official

Building Official Lockaby presented a brief staff report.

Councilmember Coler referred to the last item on the staff report "Clean Up /Violation Checklist" and asked what was being removed (wood stove or fireplace). Building Official Lockaby stated what was being removed was a very old, antique Ben Franklin stove that was converted to use gas. It is in the area of the existing fireplace. Councilmember Coler asked if the fireplace could be used. Building Official Lockaby stated "no" since it was bricked up.

ATTACHMENT 1

Government Code Section 65852.2

State Second Unit Law

Chapter 1062, Statutes of 2002

(Assembly Bill 1866)

A. IMPLEMENTATION DISCUSSION FOR SECOND UNIT LAW GOVERNMENT CODE SECTION 65852.2

Introduction

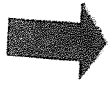
Second-units (i.e., in-law apartments, granny flats, or accessory apartments) provide an important source of affordable housing. By promoting the development of second-units, a community may ease a rental housing deficit, maximize limited land resources and existing infrastructure and assist low and moderate-income homeowners with supplemental income. Second-units can increase the property tax base and contribute to the local affordable housing stock. Government Code Section 65852.2 (a.k.a. second-unit law) was enacted in 1982 and has been amended four times (1986, 1990, 1994 and 2002) to encourage the creation of second-units while maintaining local flexibility for unique circumstances and conditions. Local governments may allow for the creation of second-units in residential zones, set development standards (i.e., height, setbacks, lot coverage), require minimum unit sizes and establish parking requirements. However, State standards apply if localities do not adopt a second-unit ordinance in accordance with the intent of second-unit law and subsections (a) or (c).

Chapter 1062 amends second-unit law to require ministerial consideration of second-unit applications to encourage the creation of second-units. For the text of Chapter 1062 (AB 1866) relating to Government Code Section 65852.2, see the second section of this attachment, titled “Changes to Government Code Section 65852.2”. Following is a discussion of the new legislation to assist localities in carrying out the provisions of Chapter 1062:

Intent of Second-Unit Law (Government Code Section 65852.150)

The preparation, adoption, amendment and implementation of local second-unit ordinances should be carried out consistent with Government Code Section 65852.150:

The Legislature finds and declares that second units are a valuable form of housing in California. Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income, and an increased sense of security.



It is the intent of the Legislature that any second-unit ordinances adopted by local agencies have the effect of providing for the creation of second units and that provisions in these ordinances relating to matters including unit size, parking, fees and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.

When Does a Local Second-Unit Ordinance Apply versus State Standards?

Second-unit law contains provisions to guide the adoption of a local ordinance (subsections (a) and (c-g)) and describes State standards that apply in the absence of a local ordinance (subsection (b)). When a local second-unit ordinance is enacted in accordance with subsections (a) or (c), the local ordinance provides the criteria for approving and denying second-unit applications. In the absence of a local second-unit ordinance in accordance with subsection (a) or (c), the State standards contained in subsection (b) of Government Code Section 65852.2 establish the criteria for approving and denying second-unit applications. While the State standards, under subsection (b), do not necessarily apply to the preparation or update of a local ordinance, they are appropriate to use as a guideline.

Does a Locality Have Flexibility in Adopting a Local Second-Unit Ordinance?

Second-unit law was created and amended within the context of providing "...a minimum of limitation...", so localities "...may exercise the maximum degree of control over local zoning matters..." (Government Code 65800). Chapter 1062 requires localities to consider applications for the development of second-units ministerially with the intent to create second-units and not constrain their development. Second-unit law provides local flexibility to manage the opportunity for creating second-units. For example, Government Code Section 65852.2(a)(1) provides that:

65852.2.(a)(1) Any local agency may, by ordinance, provide for the creation of second units in single-family and multifamily residential zones. The ordinance may do any of the following:

- (A) Designate areas within the jurisdiction of the local agency where second units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of second units on traffic flow.*
- (B) Impose standards on second units that include, but are not limited to, parking, height, setback, lot coverage, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.*
- (C) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that second units are a residential use that is consistent with the existing general plan and zoning designation for the lot.*

A local government may apply quantifiable, fixed and objective standards, such as height, setback, and lot coverage requirements so the second-unit will be compatible with other structures in the neighborhood. A local government may designate areas appropriate for second-units based on criteria such as the adequacy of water and sewer services and the impact of second-units on traffic flow. At the same time, a locality must adopt an ordinance with the intent of facilitating the development of second-units in appropriate residential zones without arbitrary, excessive, or burdensome provisions and requirements.

Under limited circumstances, a locality may prohibit the development of second-units in single-family or multifamily zones (Government Code Section 65852.2(c)). This prohibition may only be enacted if a locality adopts formal written findings based on substantial evidence identifying the adverse impact of second-units on the public health, safety, and welfare and acknowledging such action may limit housing opportunities in the region (Section 65852.2(c)). Prior to making findings of specific adverse impact, the agency should explore feasible alternatives to mitigate and avoid the impact. Written findings should also acknowledge efforts to adopt an ordinance consistent with the intent of second-unit law.

A local government may also establish reasonable minimum and maximum unit size requirements for both attached and detached second-units according to Government Code Section 65852.2(d). Minimum and maximum unit sizes should be reasonable and should not arbitrarily and excessively restrict the development of second-units. For example, a maximum unit size of 400 square feet might be unduly restrictive on minimum lot sizes of 7,000 square feet, barring unusual circumstances, and would restrict the development of second-units. Minimum unit sizes should also uphold health and safety standards.

Also, localities should ensure parking requirements are consistent with standards set forth in subsection (e). This subsection limits parking requirements to one parking space per unit or bedroom, unless a locality makes specific findings.

When Does Chapter 1062 Take Effect for Second-Unit Law?

Government Code Section 65852.2(a)(3) requires where a local agency has a local ordinance in accordance with subsections (a) or (c), an application for a second-unit permit is to be considered ministerially without discretionary review or public hearing on or after *July 1, 2003*. Local jurisdictions without an ordinance must utilize the State second-unit standards set forth in Section 65852.2(b) and are required to ministerially consider second-unit applications after *January 1, 2003*.

Chapter 1062 does not necessarily require a local agency to adopt or amend a second-unit ordinance (Section 65852.2(a)(3)). If a locality has a second-unit ordinance in accordance with subsections (a) or (c) of second-unit law, an application should be considered ministerially. For example, if a locality has an ordinance with development standards in accordance with the intent of second-unit law and subsection (a) and requires a conditional use permit, the locality should consider a second-unit application ministerially according to the adopted development standards

and any provisions of the local ordinance which are in conflict with second-unit law, such as a conditional use permit, should be considered null and void. However, if a locality has a second-unit ordinance that does not meet the intent and subsections (a) or (c), the locality is required to ministerially consider a second-unit application in accordance with the State standards in subsection (b).

What is Ministerial Review?

Chapter 1062 requires development applications for second-units to be "...considered ministerially without discretionary review or a hearing..." or, in the case where there is no local ordinance in compliance with subsections (a) or (c), a local government must "...accept the application and approve or disapprove the application ministerially without discretionary review..." In order for an application to be considered ministerially, the process must apply predictable, objective, fixed, quantifiable and clear standards. These standards must be administratively applied to the application and not subject to discretionary decision-making by a legislative body (For clarification see the attached definition of ministerial under California Environmental Quality Act (CEQA) Guidelines, Section 15369.). The definition is generally accepted and was prepared pursuant to Public Resources Code.

An application should not be subject to excessively burdensome conditions of approval, should not be subject to a public hearing or public comment and should not be subject to any discretionary decision-making process. There should be no local legislative, quasi-legislative or discretionary consideration of the application, except provisions for authorizing an administrative appeal of a decision (see Appeal discussion below).

The intent of Chapter 1062 is to improve certainty and predictability in the approval process. Where special use or variances must apply, the locality should grant the variance or special use permit without a public hearing for legislative, quasi-legislative or discretionary consideration, as authorized by Government Code Section 65901. An application for consideration by a board of zoning adjustments or zoning administrator should apply a limited and fixed set of clear, predictable and objective standards without the application of discretionary conditions or public comment.

Chapter 1062 does not affect local government measures to keep the public apprised of pending applications and the status of the decision-making process. A local government should handle public noticing in the same manner as other ministerial actions. For example, if a local government allows new construction of a single-family residence by right or ministerially and public notice is not given for these applications, then a local government should employ the same procedures for second-unit applications. The appropriate point for public comment is the discretionary action adopting or amending a second-unit ordinance.

As explicitly stated in the provisions of 65852.2(a), a locality may require second-units to comply with development standards such as height, setback and architectural review. At the same time, architectural review should be handled in a ministerial fashion without discretionary public hearings or review. Architectural review in a ministerial fashion includes architectural standards and design guidelines with clear, fixed and objective standards. These standards should provide a

predictable concept of appropriate second-unit development. For example, the compatibility of the materials with the existing structure, exterior color, subordinate bulk or compatible exterior surface texture are architectural standards that can be applied in a ministerial manner, especially with the aid of design review guidelines. Architectural review standards should not impede the creation of second-units and should not detrimentally affect the feasibility or affordability of second-units.

Can a Locality Accept Appeals If a Second-unit Application Is Denied?

A locality can provide an appeal process for applicants whose second-unit proposal is denied. The appeal process should maintain predictable and fixed approval standards, consistent with the intent of Chapter 1062. Accordingly, an appeal should not include a public hearing with public comment as part of a discretionary decision. The appeal process should be handled in a ministerial and administrative manner and should be limited in scope, only considering the proposal's compliance with the objective standards of the second-unit ordinance.

Can a Locality Consider an Additional Process to Consider Second Units if the Standards Established by Chapter 1062 Have Been Met?

If a local ordinance is consistent with subdivisions (a) and (c-g) of second-unit law and consistent with the intent of the law, a local government could also adopt an ancillary set of broader standards under which second-units might be allowed under a discretionary review process as exceptions to existing zoning. While the statute does not preclude a broader and more flexible set of standards, localities must be very careful that any criteria or process for a secondary set of standards is only ancillary to the ministerial consideration required by Chapter 1062. Typical exceptions to zoning could be handled administratively or quasi-judicially.

Homeowners in the community are entitled to have a realistic opportunity to create second-units. If the locality fails to provide an adequate ministerial process pursuant to subdivision (a) and (c-g), applications for second-units should be subject to the State standards of subdivision (b) of Section 65852.2.

Is a Locality Required to Allow Second-Units in Multifamily Zones?

While second-units may be allowed in both single- and multi-family zones (Sections 65852.2(a)(1) and (b)(1)(B)), nothing in the statute requires more than one second-unit to be permitted on a single parcel. The State standards specifically require that the lot contain an existing single-family dwelling (Section 65852.2(b)(1)(C)) and localities could adopt a similar requirement. Alternatively localities could permit second-units on parcels containing, for example, a duplex. The guiding principle for the local ordinance should be to avoid provisions that are "...so arbitrary, excessive or burdensome so as to unreasonably restrict the ability of homeowners to create second-units in zones where they are authorized by local ordinance." (Section 65852.150). For example, second-units should not be arbitrarily excluded from appropriate geographic areas.

Are Second-Units Exempt from Local Growth Control?

Yes. Government Code Section 65852.2(a)(2) states second-units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth. Second-units must be exempt from growth control measures regardless of whether the growth control has been

enacted by local initiative or the legislative body. Local governments should take steps to address any inconsistency between the second-unit mandate and local initiatives, ordinances, policies, programs or any other regulations to limit residential growth.

What Kind of Environmental Review is Required for Second-Units?

Second-units approved ministerially are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, second-units can be categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA guidelines, authority cited under Public Resources Code Section 21083 and 21087.

How Can a Locality Encourage Second-Units?

Local governments can encourage second-unit development through a variety of mechanisms. For example, a locality could develop information packets to market second-unit construction. A packet could include materials for a second-unit application, explain the application process, and describe incentives to promote their development. A locality could also advertise second-unit development opportunities to homeowners on the community's web page, at community and senior centers, in community newsletters, and in local utility bills, etc. Some local governments establish and maintain a second-unit specialist in the current planning division to assist in processing and approving second-units. A local government can also establish flexible zoning requirements, development standards, processing and fee incentives that facilitate the creation of second-units (Government Code Section 65852.2(g)). Incentives include reduced parking requirements near transit nodes, tandem parking requirements, pre-approved building plans or design prototypes, prioritized processing, fee waivers, fee deferrals, reduced impact fees, reduced water and sewer connection fees, setback reductions and streamlined architectural review. For example, the City of Santa Cruz established pre-approved design prototypes to encourage and stimulate the development of second-units.

Localities can also monitor the effectiveness of ordinances, programs and policies encouraging the creation of second-unit development. Some localities monitor implementation of second-unit strategies through the annual general plan progress report (Government Code Section 65400). Evaluating the effectiveness of a second-unit ordinance can assist the local government in determining appropriate measures to improve usefulness and further facilitate the development of housing affordable to lower- and moderate-income families.

See the second-unit bibliography in the Resources section for additional resources on the development of second-units.

Can a Locality Have Occupancy Requirements on Second-Units?

Requirements restricting the occupancy of a second-unit may be susceptible to legal challenge. In a 1984 decision, the Superior Court (Hubbart vs. County of Fresno, Superior Ct. No. 309140-2, 10/3/84), voided a Fresno County zoning ordinance which required that occupancy of a second-unit be limited to persons related to the main unit's owner. The Court stated that the ordinance violated the plaintiff's right to privacy guaranteed by Article I, Section I of the California Constitution.

In a 2001 decision (*Coalition Advocating Legal Housing Options v. City of Santa Monica*), a second-unit ordinance preventing non-dependent adult children or relatives, as well as unrelated persons while permitting dependents and caregivers, was declared unconstitutional under the right to privacy and equal protection clause of the California Constitution.

A local ordinance could include income restrictions on the occupancy of a second-unit to ensure the creation of housing affordable to low- and moderate-income households. A local ordinance could also require one of the dwellings on the property to be owner-occupied. However, an ordinance with these restrictions and requirements should be developed in a manner that encourages the creation of second-units as opposed to restricting the development of second-units.

Does Second-Unit Law Apply to Charter Cities and Counties?

Yes. Charter cities and counties must particularly give way to State general laws such as second-unit law when there are matters of Statewide concern (*Coalition Advocating Legal Housing Options v. City of Santa Monica* (2001) 105 Cal. Rptr. 2d 802), as stated by the Legislature in Government Code Sections 65580, 65852.150 and 65852.2(i)(2). Further, second-unit law explicitly applies to “local agencies” which are defined as general law or charter (Government Code Section 65852.2(i)(2)).

Does Second-Unit Law Apply to Localities in the Coastal Zone?

Yes. The California Coastal Act was enacted to preserve our natural coastal resources for existing and future Californians. While second-units utilize existing built areas and usually have minimal environmental impact, the need for second-units should be balanced against the need to preserve our unique coastal resources. For these reasons, second-unit law shall not supersede, alter or lessen the effect or application of the California Coastal Act (Division 20 of the Public Resources Code), except that local governments shall not be required to hold public hearings for coastal development permit (CDP) applications for second-units (Government Code 65852.2(j)). As stated in correspondence, dated January 13, 2003 from the California Coastal Commission to all coastal communities, local governments in the coastal zone should amend their Local Coastal Program (LCP) to not require a public hearing in the consideration of second-unit applications. Further, local appeals should be handled in an administrative manner.

Should a Locality Submit Their Second-Unit Ordinances to HCD?

Yes. Government Code Section 65852.2(h) requires submittal of an ordinance adopted pursuant to subsection (a) and (c) to the State Department of Housing and Community Development (Department) within 60 days of adoption. The Department will establish a clearinghouse of local ordinances to assist local governments in developing effective and meaningful ordinances. The Department is also available to provide technical assistance in the preparation of second-unit ordinances. Local governments are encouraged to send electronic copies of their ordinance to the Department at pmcdouga@hcd.ca.gov.

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 or 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.

The addition of a second unit will not negatively impact neighborhood, we are providing additional parking and landscaping for beautification of neighborhood. We believe it will improve the aesthetic and commercial value of our house and surrounding homes.

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.

I believe we with our request is in accord with requirements and will not be indicative of "special privilege"

- 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.

I believe our improvements will benefit our neighbors and low access to low income housing

- 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.

I believe our improvements will benefit the town and fit within town policy and character.



Ross Valley Fire
Department

777 San Anselmo Ave
San Anselmo, Ca 94960
Ph. 415-258-4686

FIRE DEPARTMENT PLAN REVIEW

PROJECT: New 2nd Unit
ADDRESS: 76 Spruce Rd
Fairfax CA, 94930

Page: 1 of 3

Date: 02/07/2014

Reviewed by: Rob Bastianon
(415) 258-4673

TYPE OF REVIEW: Planning

E-mail: Rbastianon@rossvalleyfire.org

Bldg. Dept. 1/17/14

Fire Dept. # 14-0036

Review No. 1

Fire Department Standards can be found at: www.rossvalleyfire.org

Applicant*: Fairfax Planning

***Applicant is responsible for distributing these Plan Review comments to the Design Team.**

Occupancy Class: R-3	Fire Flow Req: 1000 GPM	Sprinklers Required: YES
Type of Construction: V-B	On-site Hyd. Req: NO	Fire Alarm Required: NO
Bldg Area: 750 sqft:	Turn-Around Req: NO	Permits Required: Sprinkler
Stories: +	Fire Flow Test Required: NO	VMP
Height: +ft.	Wildland Urban Interface: YES	

The project listed above has been reviewed and determined to be:

- ☐ APPROVED (no modifications required)
- ☒ APPROVED AS NOTED (minor modifications required - review attached comments)
- ☐ NOT APPROVED (revise per attached comments and resubmit)
- ☐ INCOMPLETE (provide additional information per attached comments and resubmit)

NOTE: Please review the comments and make corrections and/or add notes as required. Changes and/or additions shall be clouded and referenced by date on a legend. Approval of this plan does not approve any omission or deviation from the applicable regulations. Final approval is subject to field inspection. Approved plans shall be on site and available for review at all times.

ROSS VALLEY FIRE DEPT

☒ Approved

☒ Approved with Conditions

☐ Not Approved--need revision

☐ Incomplete

Date: 2-7-14

Inspections required:

- ☐ Access/Water Supply prior to delivery of combustibles
- ☒ Defensible Space/Vegetation Management Plan
- ☒ Sprinkler Hydro/Final
- ☒ Final

EXHIBIT # D



Ross Valley Fire
Department

777 San Anselmo Ave
San Anselmo, Ca 94960
Ph. 415-258-4686

FIRE DEPARTMENT PLAN REVIEW

PROJECT: New 2nd Unit
ADDRESS: 76 Spruce Rd
Fairfax CA, 94930

Page: 2 of 3
Date: 02/07/2014
Reviewed by: Rob Bastianon
(415) 258-4673

TYPE OF REVIEW: Planning

E-mail: Rbastianon@rossvalleyfire.org

Bldg. Dept. 1/17/14

Fire Dept. # 14-0036

Review No. 1

Fire Department Standards can be found at: www.rossvalleyfire.org

ITEM #	SHEET	COMMENTS	Corr. Made
1		Scope of work for this project was found to fall within the definition of a substantial remodel. A "Substantial Remodel" is defined as follows: The renovation of any structure, which combined with any additions to the structure, affects a floor area which exceeds fifty percent of the existing floor area of the structure. When any changes are made in the building, such as walls, columns, beams or girders, floor or ceiling joists and coverings, roof rafters, roof diaphragms, foundations, piles or retaining walls or similar components, the floor area of all rooms affected by such changes shall be included in computing floor areas for purposes of applying this definition. This definition does not apply to the replacement and upgrading of residential roof coverings.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
2		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 deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and /or design-build sprinkler systems. SHALL BE NOTED AS DEFERRED SUBMITTAL	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
3		A Vegetation 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. The use of bamboo is prohibited within the wildland urban interface areas of Fairfax. SHALL BE NOTED AS DEFERRED SUBMITTAL	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
4		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.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
5		Carbon monoxide alarms shall be provided in existing dwellings when a	



Ross Valley Fire
Department

777 San Anselmo Ave
San Anselmo, Ca 94960
Ph. 415-258-4686

FIRE DEPARTMENT PLAN REVIEW

PROJECT: New 2nd Unit
ADDRESS: 76 Spruce Rd
Fairfax CA, 94930

TYPE OF REVIEW: Planning

Bldg. Dept. 1/17/14

Fire Dept. # 14-0036

Fire Department Standards can be found at: www.rossvalleyfire.org

Page: 3 of 3

Date: 02/07/2014

Reviewed by: Rob Bastianon
(415) 258-4673

E-mail: Rbastianon@rossvalleyfire.org

Review No. 1

ITEM #	SHEET	COMMENTS	Corr. Made
		permit is required for alterations, repairs, or addition exceeds one thousand dollars. CO alarms shall be located outside of each dwelling unit sleeping are in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit including basements.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
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 to a light or be reflective numbers. If your project is a new house or substantial remodel, they may only be internally illuminated or illuminated an adjacent light controlled by a photocell and switched only by a breaker so it will remain illuminated all night. If not currently as described, they must be installed as part of this project.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	
7		Applicant may propose alternate materials or method in accordance with Section 103.3. All approved alternates requests and supporting documentation shall be included in the plans set submitted for final approval.	
		Submitter's Response: Correction has been completed. See Sheet ____ of <input type="checkbox"/> Plans <input type="checkbox"/> Calculations.	

*If re-submittal is required, all conditions listed above shall be included in revised drawings.
Fire and life safety systems may require a separate permit. Fire permits may be noted as deferred.*

Attn: Chief Morin

**TOWN OF FAIRFAX
DEPARTMENT OF PLANNING AND BUILDING SERVICES**

142 Bolinas Road, Fairfax, California 94930
Phone (415) 453-1584 FAX (415) 453-1618

LETTER OF TRANSMITTAL

From: Fairfax Planning And Building Services Department

Date: January 17, 2014

To: ☐ Town Engineer ☒ Fairfax Police Dept. ☐ Marin County Open Space Dist.
☐ Town Attorney ☒ Sanitary Dist. 1 ☒ Other - Building
☒ MMWD ☒ Public Works Dept.
☒ Ross Valley Fire ☐ Marin County Health Dept.

Address and Parcel No: 76 Spruce Road; Assessor's Parcel No. 001-142-23

Project: Conversion of an existing accessory structure that is roughly 750 square feet in size and approved for use as a garage/workshop into a residential second living unit with a full bath and kitchen.

These plans are being transmitted for review prior to public hearings on discretionary permits before the Fairfax Design Review Board and Planning Commission. Please provide your comments on the completeness and adequacy of the submittal for your agencies reviewing purposes within 10 days.

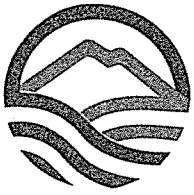
1	Received 1/14/14	Preliminary plans

REMARKS: _____

Please respond by February 3, 2014.

If you have any questions please contact: Linda Neal, Senior Planner at (415) 453-1584

Mon FPD 1/20/14



MARIN MUNICIPAL WATER DISTRICT

220 Nellen Avenue Corte Madera CA 94925-1169

RECEIVED

January 22, 2014

Service No. 45994

www.marinwater.org

FEB 03 2014

TOWN OF FAIRFAX

Linda Neal
Town of Fairfax Planning Dept
142 Bolinas Rd
Fairfax CA 94930

RE: WATER AVAILABILITY – Second Unit - Detached
Assessor's Parcel No.: 001-142-23
Location: 76 Spruce Rd, Fairfax

Dear Ms. Neal:

There has not been a water entitlement established for the proposed second living unit. Although the parcel is currently supplied, the purpose and intent of existing Service No. 45994 is to serve a single family dwelling. Payment of a connection fee is required prior to granting (legalizing) water service to the second unit. The installation of a separate meter for the second unit is required. Water service required for the second unit will be available upon request and fulfillment of the requirements listed below.

1. Complete a High Pressure Water Service Application.
2. Submit a copy of the building permit.
3. Pay appropriate fees and charges.
4. Comply with the District's rules and regulations in effect at the time service is requested.
5. Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Plans shall be submitted, and reviewed to confirm compliance. The following are required:

- Verification of indoor fixtures compliance
- Landscape plan
- Irrigation plan
- Grading plan

Any questions regarding District Code Title 13 – Water Conservation should be directed to Water Conservation Department at (415) 945-1497. You can also find information about the District's water conservation requirements online at www.marinwater.org.

6. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559.

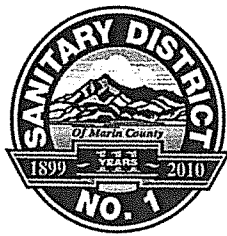
If you have any questions regarding this matter, please contact me at (415) 945-1532.

Sincerely,

Joseph Eischens
Senior Engineering Technician

CB: mp

cc: Town of Fairfax Building Dept
Gabriel Harns, 76 Spruce Rd, Fairfax CA 94930



ROSS VALLEY SANITARY DISTRICT

2960 Kerner Blvd
San Rafael, CA 94901
(415) 259-2949 ~ rvsd.org

RECEIVED

FEB 19 2014

TOWN OF FAIRFAX

Feb 18, 2014

Linda Neal, Senior Planner
Town of Fairfax
Dept of Planning and Building Services
142 Bolinas Road
Fairfax, CA 94930

SUBJECT: DESIGN REVIEW, 76 SPRUCE RD., FAIRFAX; APN: 001-142-23

Dear Ms. Neal:

We are in receipt of your transmittal letter received Jan 21, 2014 concerning the above-referenced project. Since this project involves an extensive demolition and rebuild of a garage/workshop into a second residential living unit, 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 there is an existing lateral and it 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 found to meet all current District requirements.

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 this office and meet all District requirements pertaining to the private side sewer/lateral.

If you need further information regarding this matter, please contact the office.

Sincerely,

Randell Y. Ishii, M.S., P.E.
District Engineer



Sharmy Mayne
Stewart Title of California, Inc.
2850 Cordelia Road, Suite 100
Fairfield, CA 94534
Phone: (707) 430-0061
Fax:

PRELIMINARY REPORT

TOWN OF FAIRFAX

Order No. : 01180-60716
Title Unit No. : 7531
Your File No. :
Buyer/Borrower Name : Gabriel Harris and Pamela Jankelow
Seller Name :

APR 21 2014

RECEIVED

Property Address: 76 Spruce Road, Fairfax, CA 94930

In response to the above referenced application for a Policy of Title Insurance, Stewart Title of California, Inc. hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception on Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions, and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters, which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report, (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance a binder or commitment should be requested.

Dated as of October 07, 2013 at 7:30 a.m.

Update No. 1

Sharmy Mayne, Title Officer

When replying, please contact: Toni Krcha, Escrow Officer

Stewart Title of California, Inc.
1701 Novato Blvd., Ste 202
Novato, CA 94947
(415) 892-5800

EXHIBIT # E

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Marin and described as follows:

Parcel One:

Being a portion of Lots 3, 4 and 5, Block 9, as shown upon that certain Map entitled "Amended Map of Fairfax Manor", filed for record April 18, 1919 in Volume 5 of Maps, at Page 4, Marin County Records.

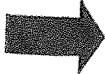
Beginning at a point on the Northerly line of the aforementioned Lot 3; said point lying South 89° 14' West 37.32 feet from the Northeasterly corner of said Lot 3; thence leaving said Northerly line, South 26° 13' 37" East 15.16 feet to the true point of beginning; thence South 29° 02' 48" East 21.07 feet; thence South 25° 09' East 41.25 feet; thence South 2° 23' East 45.66 feet to the Southerly line of said Lot 3; thence along the line of aforementioned Lots 3, 4 and 5, South 87° 37' West 14.72 feet; thence South 87° 56' West 70.39 feet (74.24 Map); thence North 78° 54' West 14.00 feet; thence North 26° 10' West 40.00 feet; thence North 63° 50' East 42.00 feet; thence North 40° 00' East 68.23 feet to the point of beginning.

Parcel Two:

An easement for sanitary sewer described as follows:

Beginning at the Southeasterly corner of the above described Parcel; thence North 2° 23' West 45.66 feet; thence 27° 06' 24" East 39.26 feet; thence South 87° 37' West 16.00 feet to the point of beginning.

Parcel Three:

 An easement for parking, ingress and egress over a portion of Lot 4, as described in instrument recorded July 8, 1977 in Book 3230 of Official Records at Page 677, Marin County Records that is included within a strip of land 3 feet wide lying Westerly of and contiguous and parallel to the following described line:

Beginning at the Southeasterly corner of said Lot 4; thence along the Easterly line of said Lot 4, North 26° 10' West 40.00 feet to the point of termination.

APN: 001-142-23

(End of Legal Description)

NOTES AND REQUIREMENTS

- A. Star Rate
- B. There are no conveyances affecting said land, recorded with the County Recorder within 24 months of the date of this report.
- C. The Company is not aware of any matters which would cause it to decline to attach CLTA Endorsement 116, indicating that there is located on said land a Single Family Residence known as 76 Spruce Road, Fairfax, California to an extended coverage policy.
- D. None of the items in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an ALTA Loan Policy, when issued.
- E. Please be aware many lenders are now requiring any request for up-dated information, confirmation of figures and the pay-off check be from the title company to which the demand was sent or which was noted on the demand as the title company in the transaction. Therefore, this company will require any demands for existing liens be directed to "Stewart Title of California, Inc." or at least noted thereon as the title company that will be insuring the proposed transaction. Please be sure such demands also reference our order number as well as your escrow number.
- F. Additional Requirements for "Short Sale" Transactions in which a lender will accept less than the outstanding balance of its loan as full satisfaction of the obligation:

The Company will require, prior to the issuance of a policy of title insurance, evidence that the first-position trust deed holder has received and acknowledged all payments to be made to subordinate-position lien holders, regardless of whether such payments are to be made from proceeds or from contributions by real estate brokers and/or buyers in the subject transaction, or from other third-party sources. Evidence shall include but not be limited to: (a) a written demand from the first-position trust deed holder acknowledging and approving payments to subordinate-position lien holders from proceeds and otherwise; or (b) a supplemental letter or amended demand from the first-position lien holder acknowledging payments to be made to subordinate lien holders from sources other than proceeds (including broker commissions and additional buyer deposits).