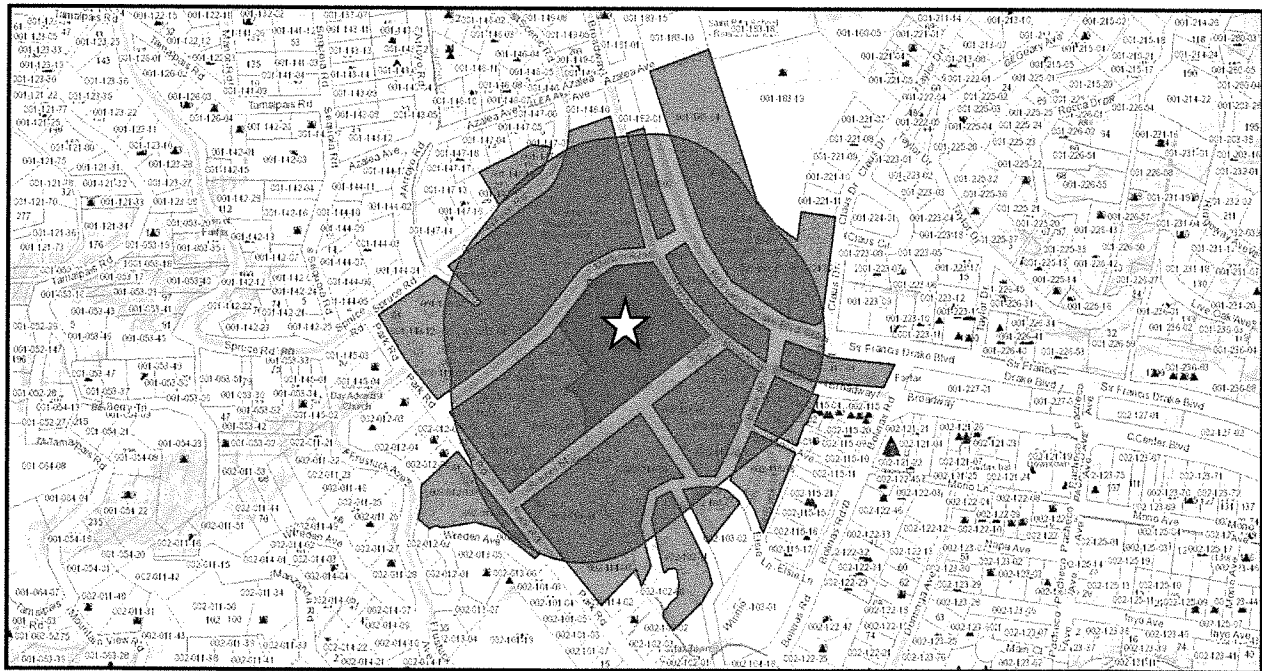


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: December 19, 2019
FROM: Ben Berto, Director of Planning and Building Services
 Linda Neal, Principal Planner
LOCATION: 6 School Street Plaza; Assessor's Parcel No. 002-112-13
PROJECT: Conversion of 15 commercial spaces to live/work units
ACTION: Conditional Use Permit, Design Review Permit (previous Fence Height Variance application has been withdrawn); Application # 19-14
APPLICANT: Fred Ezazi
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(a) and (e)(1)



SCHOOL STREET PLAZA

BLDG. 6: SUITE 110 (SUITES 270 & 280 are no longer proposed for live work); BLDG. 8: 8A2, 8A3, 8A4, 8B, 8 D, BLDG. 10: SUITES 10C, 10D & 10E; BLDG. 12: SUITES 12B-1, 12-B-2, 12C-1, 12C-2, 12D-1 & 12D-2

BACKGROUND

This item was continued off calendar from the October 17, 2019 Planning Commission meeting where the Commission directed staff and the applicant to provide them with the following additional information:

1. The rent range that will be charged for each live/work space, and the approximate number of people potentially occupying the space.
2. More detailed floor plans including door and window locations, sizes, and whether a window will be used for egress, dimensions of each unit and of the areas dedicated to be used for commercial and residential uses, with bedrooms/sleeping areas called out, and locations of bathrooms and kitchens. The garbage area, circulation, and security should also be addressed. Floor plans shall include furniture and appliance placements (beds, chairs, desks, refrigerators, stovetops/ovens, etc.).
3. The Housing Element of the 2010-2030 Fairfax General Plan identified School Street Plaza as a potential site for affordable housing. Several Commissioners have stated that they would be supportive of the project if it will result in the provision of affordable housing. Please address whether, and if so how, you may be willing to provide at least some affordable housing, particularly low-income.
4. One Commissioner comment raised concern with the low percentage of working space relative to living space in some of the units and would like to see all the units have a ratio closer to 60/40 or 50/50 (percentage of living area to work area percentage). Please respond to whether and how you would address the living/work area ratio.
5. None of the Commissioners present were supportive of the proposed fence/wall design. Please submit a revised fencing plan including dimensioned elevations on the frontages where the fence is proposed. Include in the site plan the landscaping proposed in the vicinity of the fence, and whether it would be new or existing (including all existing trees). One of the Commissioners pointed out that if the purpose of the fence is security, it may be afforded through the use of landscaping (for example, 'armored' planter materials).

The Commission directed staff to provide them with the following:

1. Other agencies live/work ordinances, for potential applicability in a Fairfax code.
2. A review of the proposed live/work spaces for compliance with the California Building Code/California Residential Code requirements for live/work spaces.

Please see the original staff report and minutes dated 10/17/19 for additional information on this project.

DISCUSSION

Project Changes

After the October meeting the applicant decided to remove the requested fence height variance from the application, which means that the portions of fencing that have been erected along Broadway and Merwin will need to be removed.

The revised proposal also includes relocation of the live work spaces that had been located in building 6, on the second floor (suites 270 and 280) to building 8. The existing bathroom and storage area/office, located on the easternmost end of building 8, would be expanded by 360 square-feet and then the existing and the newly expanded area would be converted into 2 live-work units that would be 381 square-feet (unit 8A3) and 249 square-feet (unit 8A4). Both of these units would be studio units, with the living space and work space sharing the same room with the kitchens and only the bathrooms as separate rooms.

Another proposed change is the conversion of suite 12B2 that was going to be strictly a commercial unit to a live/work studio unit with a kitchenette and bathroom. This would increase the number of live/work spaces being proposed from 14 to 15.

The floor plans have been altered to show the location of some furniture (beds, some couches, etc.), bathroom fixtures (toilets, sinks and showers) and the kitchenette appliances/fixtures (refrigerators, stoves and sinks) and to identify windows that will be used for emergency exiting. The garbage receptacle area was not located on the site plan but it is located at the northeast corner of the site and is used by all the businesses.

New Parking Analysis

The original proposal included the expansion of the southern portion of building 8 by 700 square-feet. The proposed revision results in building 8 being increased by 1,060 square-feet.

To refresh everyone's memory in 1978-79 the Town approved the 6,084 square-foot, 2-story commercial structure at the corner of Broadway and School Street, bringing the total area of commercial buildings to 20,119 square feet. At that time, the Town approved the project allowing the property to comply with the specific parking requirements for personal service businesses and offices found in the Parking Ordinance, Town Code §§17.052.030(F) and (G) rather than the more general restrictive parking standard of 1 parking space for each 200 square feet of commercial space contained in the Limited Commercial Zone District Regulations [Town Code § 17.092.110(B) (2)(a)]. The applicable parking standards approved by the Town at that

time are 3 spaces for the first 500 square-feet of commercial space and 1 space for each additional 500 square feet. The site contains 62 parking spaces.

The proposed revised expansion of 1,060 square-feet increases the total commercial square footage of the site to about 20,479 which increased the required on-site parking from 42 spaces to 43 spaces [Town Code § 17.052.030(F) and (G)]. Therefore, the site that provides 62 parking spaces is still in compliance with the code and the proposed expansion does not require the approval of a parking variance.

Staff has confirmed that based on the conversion/expansion of 7,073 square-feet of commercial space to live/work along with the existing 13,406 square-feet of service commercial area, the average daily traffic (ADT) generated by the School Street Plaza should still decrease roughly 75 to 82 trips from that which would be generated by a strictly commercial complex of the same size. Therefore, conversion of the proposed units to live/work spaces, along with the 1,060 square foot addition, will not increase the traffic to the site beyond that which would occur if the spaces remained fully commercial, and should not require the provision of additional parking or the issuance of a Traffic Impact Permit per Town Code § 17.056.050(A)(1).

Other Live/work Ordinances

Staff has reviewed numerous ordinances throughout California and has determined that while some jurisdictions have separate live/work ordinances others process live/work projects the way Fairfax does, by requiring a conditional use permit. Some ordinances make the provision of parking a priority and others focus on ensuring that the commercial zoning of sites is not compromised by the inclusion of live/work units and that conflicts between the residential uses and commercial uses are minimized.

Staff believes that the conditions we have included in the resolution recommending approval of this project will minimize conflicts between the commercial and residential uses at School Street Plaza. Also, the Conditional Use Permit gives the Town the ability to review the use permit if issues with the approved use arise. An Ordinance limits the Town's ability to revisit approved projects once they are approved.

Building Code Review

During our review of the other agency's live/work regulations we discovered that none of them included allowing live/work units that would share bathroom facilities with other units. In fact, after reviewing (with the Building Official), the International Property Maintenance Code § 502.2 that staff was recommending the Commission utilize in order to approve the 2 units in Building 6 that were proposed to share a bathroom we have determined the following:

International Property Maintenance Code § 502.2 which staff originally believed would allow four dwelling units to share one bathroom was intended for rooming house

“rooming units” not for dwelling units (See Attachment B, § 502.2) and may not be appropriate for use with live/work projects.

Both the California Building Code, § R306.1 (Attachment C, pg 70) and the International Property Maintenance Code, § 502.1 (Attachment B) require that each dwelling unit be provided with a water closet, lavatory and its own bathtub or shower. Staff found nothing that exempted live/work facilities from these requirements.

The new proposal would not result in any units sharing bathroom facilities and all the proposed live/work units would comply with the Building Code § 419.1.1 Live Work Limitations that limits the non-residential portions of the live/work units to being not more than 50% of the area [Attachment C, page 153, § 419.1.1(2)].

The owner has indicated that he has difficulty monitoring changes the tenants have made to the interior of his building once they have moved in. This lack of control has led to the Town’s continuing problems in maintaining School Street Plaza as the commercial development it is zoned for. This is a problem not experienced by the Town with other commercial centers in Town such as Fair Anselm where there is no record of units being converted without the owner’s knowledge into living spaces.

Therefore, in order to assist the owner in retaining the main use of the property as a commercial development with the living uses secondary uses staff has incorporated the following additional conditions into the resolution recommending approval of the project:

1. Conversion of additional suites to live/work or residential units without the approval of a modification of this Conditional Use Permit shall be grounds for revocation or modification of this Conditional Use Permit.
2. All tenants and the owner shall obtain building permits for any work requiring a permit per the California Building Code. Work requiring a permit but completed without permit shall be grounds for revocation or modification of this Conditional Use Permit.
3. Work without a required building permit will result in issuance of an immediate red tag of the project and issuance of a citation to both the property owner and any tenant allowing/having the work done within their unit.

Occupancy and Rent Ranges

The applicant has provided the attached Table (Attachment D) that includes the approximate rents that will be charged for each unit and the number of persons expected to live in each live/work unit. Staff has also attached as Attachment E the Marin County Rental Affordability document for 2019 prepared by the Marin County Housing Authority.

A review of both the table and the affordability document indicates that 3 of the proposed live-work units will be affordable for very low income tenants, 6 will be affordable for low income tenants, 1 will be affordable for moderate income tenants while the remaining 5 will be market rate.

Conditional Use Permit

The applicant is now proposing to legalize 12 of the existing live/work spaces on the site, bringing them into compliance with current building and fire code requirements, to relocate the 2 units in Building 6 to the new addition/remodeled area on the east side of building 8 as suites 8A3 and 8A4 and to convert an existing commercial space in building 12, suite 12B-2, into a live work space for a total of 15 live-work units.

The purpose of the CL Zone District is to “provide a location for uses which may be incompatible with the high density characteristics of the Central Commercial CC Zone or which may have difficulty in finding a property location in the Highway Commercial CH Zone. The uses in the CL Limited Commercial zone are oriented to services rather than to the retail sale of commodities.”

Town Code §17.092.050(A) allows residential uses in the CL Zone with a Conditional Use Permit issued by the Planning Commission and Town Code §17.092.050(E) gives the Planning Commission the authority to determine whether other uses not specifically listed in the conditional use section of the CL Zone chapter are equivalent to those listed. The section also allows the Commission to determine other uses to be equivalent to those listed in the permitted use section of the CL Zone but requiring regulations of location, extent or operation because of some unique characteristic.

Staff determined that the proposed live work spaces which combine permitted physical therapy and professional offices with the conditional residential uses require the approval of a Conditional Use Permit by the Planning Commission.

Issues that arise with live/work spaces typically include conflicts between residential and commercial uses, shortage of parking and/or traffic. A further discussion of this issue can be found in the original staff report dated 10/17/19 as Attachment F to this staff report.

Affordability

Staff have been in contact with the Marin Housing Authority about how to ensure the very low and low income units of this project remain very low and low income. They have advised the following:

Conditions of approval should include the owner signing a deed restriction agreement that would be recorded restricting the specific units to remain affordable for very low and low income residents. The agreement should restrict the units for at least 55 years or in perpetuity. If this occurs the Town will be able to count the units towards meeting

their Regional Housing Needs Allocation (RHNA) numbers. If units are approved without a deed restriction they do not count towards these numbers. Fairfax has relied on the size of units to ensure that they will be affordable in the past but this is no longer an effective way to ensure affordability. The Town Attorney has indicated that the only way the state will accept deed restricted affordable units as meeting the Town RHNA numbers is if the deed restriction agreement restricts the units for at least 55 years.

Residents of the units must also submit annual "Income Certification" documents each year to ensure they are still low income in order to qualify to remain in the units.

While Marin Housing Authority would not monitor the units for the Town they would, for approximately \$2,000 assist with creating the deed restriction document for the property and for roughly \$200 per unit, the annual income verification process.

They also advised that they create the affordable housing table (Attachment E) each year for the City of San Rafael, whose program they do monitor and that affordable rents have increased typically 5% each year except for last year when they went up 15%.

Staff has included the following conditions in the draft resolution recommending approval of the project:

1. The applicant shall record a deed restriction restricting suite #'s 8A4, and 12B2 to being very low income and suite #'s 10D and 10E to being low income units for 55 years (Commission can change to in perpetuity if they so choose).
2. The tenants of the above listed units shall complete and file with the Marin Housing Authority/Town of Fairfax annual income certification forms.
3. Any and all other requirements of the Marin Housing Authority necessary to ensure the live/work units stay affordable and are rented by very low and low income persons shall be complied with by both the property owner and the tenants.

Number of Residents and Ratio of Work Space to Living Space

The proposed live work spaces offer a variety of work space versus living space areas which can be viewed in a table provided by the applicant as Attachment D.

The International Property Management Code requires that bedrooms provide at least 70 square feet for a bedroom occupied by at least one person and that 50 square feet per person be provided for bedrooms accommodating more than 1 person. If a room is to be used as both a workspace and a bedroom, the bedroom square footage must be at least 70 square feet. Compliance by the property owner with the International

Property Management Code will limit the number of persons that will be able to dwell in

the live work spaces to the following:

	Suite #	# of bedrooms	Bedroom(s) sq. ft.	# Persons allowed per IPMC
1	Bldg. 6, Ste. 110 (1 st floor)	1	99	1
2	Bldg. 8, Ste. 8A2	1	231	4
3	Bldg. 8, Ste. 8A3	studio	85	1
4	Bldg. 8, Ste. 8A4	studio	75	1
5	Bldg. 8, Ste. 8B	1	254	5
6	Bldg. 8, Ste. 8D	1	231	4
7	Bldg. 10, Ste. 10C	3	110, 90, 90	4
8	Bldg. 10, Ste. 10D	2	117, 140	4
9	Bldg. 10, Ste. 10 E	2	110, 108	4
10	Bldg. 12, Ste. 12B-1	1	95	1
	Bldg. 12, Ste. 12B-2	studio	104	1
11	Bldg. 12, Ste. 12C-1	1	90	1
12	Bldg. 12, Ste. 12C-2	1	90	1
13	Bldg. 12, Ste. 12D-1	1	91	1
14	Bldg. 12, Ste. 12D-2	1	132	2

Note: IPMC = International Property Management Code

Staff is not concerned about the ratio of work space to living space because with many new jobs being done remotely via the internet, many businesses only need a small space to accommodate an office operated by one person. However, the applicant has revised the plans so that the ratio of living space to work space square footage is at least 50/50 if not more which was suggested by the Planning Commission at the October 17, 2019 meeting.

Staff is concerned about the possibility that the spaces may become strictly residential, losing the commercial component that is required to maintain the live/work status of the units and no longer maintaining consistency with the service commercial character of the CL zoning district.

Other communities have included in their live work ordinances, the following conditions to assist them in maintaining their live work spaces (adapted for potential applicability to School Street Plaza):

1. Live/work quarters shall be occupied and used only by a business operator, or a family of which at least one member shall be the business operator.

2. The living portion of the unit shall be incidental to the workspace and the live/work space shall be maintained and classified as a business use. There shall be an interior connection between the live and work portions of the unit.
3. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.
4. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations.
5. Leases for the live work spaces must include the following: "As the occupant of a live/work space, by selecting this type of occupancy, I accept the conditions found in the area including but not limited to, commercial noise, pollution, fumes, dirt, traffic and odors to the extent that they are permitted by law in the CL Zone district."
6. There shall be no storage of flammable liquids or hazardous materials beyond that normally associated with a residence use. Storage of flammable liquids and hazardous materials beyond that normally associated with a residential use, such as for an artist studio, shall only be allowed through prior written modification of this use permit and approval from the Ross Valley Fire Inspector and Fairfax Building Inspector.
7. The living space may not be rented or sub-let separately from the work space.
8. There shall be no signs or advertising in conjunction with a live/work facility, except for a 2 square-foot sign for each business attached to the door, window or exterior wall of that business.
9. An adequate refuse storage area shall be provided for all the commercial and live/work spaces in the School Street Plaza complex.
10. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of any new lighting to meet this condition shall be to the satisfaction of the Planning Director and Building Official. A minimum lumen level of one foot-candle at ground level shall be provided in all exterior doorways, pedestrian travel pathways, stairways and vehicle parking areas. (Staff will include the following in the resolution should the project be approved: An exterior lighting plan shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the Planning Director and Building Official prior to issuance of the building permit.
11. The residential use of the live/work spaces shall not interrupt or modify the external appearance of the commercial building frontage (i.e. no storage of

barbecues, furniture (indoor/outdoor), excessive plantings in pots outside the buildings).

12. The commercial and residential components shall be restricted to the live/work units and shall not be conducted in the walkways, rear yard area or parking lot of School Street Plaza.
13. The commercial and residential components of the live/work spaces as designated on the floor plans approved through this Conditional Use Permit shall remain as depicted in the plans dated pages A0, A1 and A3 – 11/6/19 and page A2 – 12/11/19 labeled “School House Plaza: Live Work Spaces.”
14. The residential and commercial components shall remain residential and commercial and cannot be converted to an all residential or all commercial use without the approval of a modification of this Conditional Use Permit by the Planning Commission.
15. No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.
16. The commercial uses operating from the live/work spaces shall only be permitted uses in the CL Zone and shall not generate external noise, odor, flare, vibration or electrical interference detectible to normal sensory perception by adjacent neighbors.
17. Prohibited uses in the live/work spaces are retail sales of food and/or beverages (does not include internet sales, mail order or off site catering), entertainment, drinking and public eating establishments, veterinary services including grooming and boarding or care of animals for hire or sale, businesses that involve the use of prescription drugs, Adult only businesses and the sales and repair of vehicles including bikes, automobiles, boats, motorcycles, aircraft, trucks or recreational vehicles.
18. Conversion of additional suites to live/work or residential units without the approval of a modification of this Conditional Use Permit shall be grounds for revocation or modification of this Conditional Use Permit.
19. All tenants and the owner shall obtain building permits for any work requiring permit per the California Building Code. Work requiring a permit but completed without permit shall be grounds for revocation or modification of this Conditional Use Permit.
20. Work without a required building permit will result in issuance of an immediate red tag of the project and issuance of a citation to both the property owner and any tenant allowing/having the work done within their unit.

21. No live work bedroom shall exceed the maximum number of persons allowed in the IPMC and bedrooms exceeding 100 square feet shall be limited to 3 adults or 2 adults and one child,
22. The live work spaces shall accommodate no more than 35 people so as not to significantly increase the amount of traffic accessing the site beyond what exists now.

Staff believes that with incorporation of all of the above as project conditions, the live/work spaces can be kept in compliance with the Conditional Use Permit, and conflicts between the live/work spaces and the strictly commercial spaces will be minimized and the project will provide affordable housing. Staff has included them as conditions of approval in the attached draft Resolution No. 2019-17 recommending approval of the proposed Conditional Use Permit.

Design Review

The design of the building to be altered (Building #8) is a typical "California public school building" design with not much articulation except for doors and windows with a flat roofline. The building matches the architecture of the other old school buildings on the site. The façade of the buildings that face the parking lot (Buildings 10 and 12) has been softened through the erection of vine covered trellis structures. The addition to Building #8 has been designed to match the existing exterior of the building both with minor changes in the numbers and size of windows, and relocation of the 3 rear doors accessing the spaces.

The siding for the new addition will be board and batten painted grey (Sherwin Williams, Knitting Needles, SW7672), the doors and door trim will be blue (Sherwin Williams, Poolhouse, SW7603, the window trim will be a tan color (Jeld Wen windows, Desert Sand, vinyl or fiberglass) and the safety fence along Broadway and Merwin Avenue fence will be open, with square metal posts painted in semi-gloss black paint (Sherwin Williams, Black of Night, SW 6993).

The area of the addition is not adjacent to any residential structures, it faces the ball field and Pavilion and the new walls will match the existing building construction and color. No new exterior lighting is proposed at this time and any future changes to the exterior lighting will have to comply with the following which staff has included as a condition of the project approval:

An exterior lighting plan showing existing and proposed lighting locations and fixtures shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the Planning Director prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary to light the entryways travel paths, stairways and parking lot and shall avoid direct offsite illumination.

The proposed project design complies with the design review criteria set forth in Town Council §17.020.040.

2010-2030 Fairfax General Plan Compliance

The proposed conversion of 15 of the suites at School Street Plaza into live/work spaces complies with the Fairfax General Plan policies and programs as follows:

LU-7.1.3: A combination of commercial and residential land uses that are consistent with established building height limits should be encouraged on the same parcel.

LU-8.1.1: The Town of Fairfax shall facilitate the development of key housing opportunity sites to provide for the development of affordable housing as identified in the Housing Element

LU-8.1.1.5: Change the zoning designation for the School Street Plaza area from Limited Commercial to Planned District Development; thereby making it possible to accommodate a mix of uses including housing and/or a new school at the site.

C-6.3.2: Promote mixed-use development to provide housing and commercial services near employment centers, thereby reducing the necessity of driving.

H-4.1.1.1: Rezone School Street Plaza from CL to PDD thereby making it possible to accommodate at least 9 units of housing.

H-4.1.1.3: Acceptance of Live/Work Development. Town Staff will prepare, for consideration and approval by the Planning Commission and Town Council, flexible standards that provide opportunities for live/work developments, where housing can be provided for workers on-site and/or caretaker or other types of housing can be provided. Revise the Town Zoning Ordinance.

The site is identified as an opportunity site with potential for low-income or affordable housing in-fill development in the 2010-2030 Fairfax General Plan. The adopted 2015-2023 Fairfax Housing Element proposes rezoning the site to Planned Development PDD District allowing at least 9 units of low income or affordable residential units and the proposed 15 live/work spaces would make progress towards this goal, even without the anticipated Zoning Change to Planned Development District.

Other Agency/Department Comments/Conditions

Ross Valley Fire

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

- A fire sprinkler system is required throughout the entire building which complies with the requirements of the National Fire protection Association standards 13 and 72, California Fire Code, Chapter 9, 2016 edition and local standards and the system must be U.L. certified and be monitored by a U.L. listed Fire Alarm monitoring company, smoke and carbon monoxide detectors shall be located in each live/work unit in compliance with the building code and the smoke detectors shall be provided with AC power and be interconnected, address numbers at least 4" tall shall be in place adjacent to each front door and be lighted in a manner acceptable to the Ross Valley Fire Department, separation of not less than 1 hour shall be provided between live/work suites and adjacent live/work or commercial suites.

Fairfax Building Department

Egress windows must be installed in all back rooms of suites 10C, 10D and 10E.

Marin Municipal Water District, Ross Valley Sanitary District, Fairfax Police Department and Fairfax Public Works Department.

No comments were received from the Marin Municipal Water District, Ross Valley Sanitary District, the Fairfax Police Department or the Fairfax Public Works Department.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 19-14 by adopting Resolution No. 2019-17, approving the proposed expansion, the conversion of 15 suites to live/work spaces, a modified fence design and setting forth the findings and the conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 2019-17

Attachment B –IPMC sections pertaining to dwelling units

Attachment C – California Building sections pertaining to dwelling units and live/work units

Attachment D- Applicant's School Street Plaza Occupancy and Rent Guideline

Attachment E – Marin County Affordability for 2019 tables

Attachment F – Staff report with attachments and minutes from the October 17, 2019 meeting

Attachment G – work in progress lease agreement submitted by applicant

Attachment H – example of rents found on Craig's List from applicant

RESOLUTION NO. 2019-17

A Resolution of the Fairfax Planning Commission Approving Application # 19-14 for a Conditional Use Permit, Design Review Permit for 15 Live/Work Units, A 1,060 Square-foot Expansion of 8 School Street Plaza at School Street Plaza Buildings 6, 8, 10 and 12 School Street.

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit for 15 live/work units and a Design Review Permit for a 1,060 square foot remodel/addition to building 8; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019 and December 19, 2019 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Conditional Use Permit and Design Review Permit; and

WHEREAS, based on the plans and supplemental information provided by the applicant, as well as the testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Conditional Use Permit and Design Review Permit; and

WHEREAS, the Commission has made the following findings

The proposal complies with the Fairfax General Plan Policies and Programs as follows:

LU-7.1.3: A combination of commercial and residential land uses that are consistent with established building height limits should be encouraged on the same parcel.

LU-8.1.1: The Town of Fairfax shall facilitate the development of key housing opportunity sites to provide for the development of affordable housing as identified in the Housing Element

LU-8.1.1.5: Change the zoning designation for the School Street Plaza area from Limited Commercial to Planned District Development; thereby making it possible to accommodate a mix of uses including housing and/or a new school at the site.

C-6.3.2: Promote mixed-use development to provide housing and commercial services near employment centers, thereby reducing the necessity of driving.

H-4.1.1.1: Rezone School Street Plaza from CL to PDD thereby making it possible to accommodate at least 9 units of housing.

H-4.1.1.3: Acceptance of Live/Work Development. Town Staff will prepare, for consideration and approval by the Planning Commission and Town Council, flexible standards that provide opportunities for live/work developments, where housing can be provided for workers on-site and/or caretaker or other types of housing can be provided. Revise the Town Zoning Ordinance.

Use Permit Findings

The approval of the Conditional Use Permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment as long as the conditions of approval that follow in this resolution are complied with.

The development and use of property as approved under the Conditional 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 Conditional Use Permit.

Approval of the Conditional Use Permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010-2030 Fairfax General Plan and Title 17 of the Fairfax Town Code, Zoning.

Most of the live/work spaces are already occupied and operating as live/work commercial spaces with live-in tenants except one that is under construction (Suite 12B-1), one that will be converted from existing commercial space (Suite 12B-2) and two that will effectively be relocated from building 6 to building 8. Therefore, approval of the Conditional Use Permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

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

1. The project is limited to the development depicted in the plans pages A0, A1 and A3 dated 11/8/19 and page A2 dated 12/11/19, except as modified by these conditions of approval.
2. If it is determined that any lighting beyond that which currently exists on the site is required to meet building code/safety requirements, an exterior lighting plan shall be submitted with the building permit application for review and if acceptable approval by the Planning Director prior to issuance of the building permit. All lighting shall be dark-sky compliant and shall limit light-spillage beyond the areas necessary to light access pathways and the outdoor patio, and shall avoid direct offsite illumination.
3. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of any new lighting to meet this condition shall be to the satisfaction of the Planning Director and Building Official. A minimum of one foot-candle and maximum of two foot-candles at ground level shall be provided in all exterior doorways, pedestrian travel pathways, stairways and vehicle parking areas. An exterior lighting plan shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the

Planning Director and Building Official prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary for safe circulation throughout the commercial complex, and shall avoid direct offsite illumination.

4. The applicant shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces, and keeping the property clean and clear of debris and refuse of any type
5. 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, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
6. Any other changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission or Planning Director as required.
7. 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 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.
8. The project final inspection and issuance of the occupancy permit shall not occur until all the building improvements are completed and approvals have been received from all agencies and departments with jurisdiction over the project.
9. There shall be no storage of any materials or supplies for the business outside the building.

10. Failure to comply with the conditions for modified Conditional Use Permit # 19-14 as herein enumerated, may result in revocation or modification of the Conditional Use Permit by the Planning Commission, in accordance with Chapter 17.024 of the Fairfax Town Code (section 17.024.090, grounds for revocation and 17.024.100, grounds for modification).
11. Any equipment installed on the either the roof or exterior of the building must be screened from public view.
12. Live/work quarters shall be occupied and used only by a business operator, or a family of which at least one member shall be the business operator.
13. The living portion of the unit shall be incidental to the workspace and the live/work space shall be maintained and classified as a business use. There shall be an interior connection between the live and work portions of the unit.
14. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.
15. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations.
16. Leases for the live work spaces must include the following:

“As the occupant of a live/work space, by selecting this type of occupancy, I accept the conditions found in the area including but not limited to, commercial noise, pollution, fumes, dirt, traffic and odors to the extent that they are permitted by law in the CL Zone district”.
17. There shall be no storage of flammable liquids or hazardous materials beyond that normally associated with a residence use. Storage of flammable liquids and hazardous materials beyond that normally associated with a residential use, such as for an artist studio, shall be allowed only through a modification of this Use Permit and approval from the Ross Valley Fire Inspector and Fairfax Building Inspector.
18. The living space may not be rented or sub-let separately from the work space.
19. There shall be no signs or advertising in conjunction with a live/work facility, except for a 2 square-foot non-illuminated sign for each business attached to the door, window or exterior wall of that business.
20. An adequate refuse storage area shall be provided for all the commercial and live/work tenant spaces in the School Street Plaza complex.

21. The residential use of the live/work spaces shall not interrupt or modify the external appearance of the commercial building frontage (i.e. no storage of barbecue, furniture (indoor/outdoor), excessive plantings in pots out-side the buildings, etc.).
22. The commercial and residential components shall be restricted to the live/work units and shall not be conducted in the walkways, rear yard area or parking lot of school street plaza.
23. The commercial and residential components of the live/work spaces as designated on the floor plans approved through this use permit shall remain as depicted in the plans pages A0, A1 and A3 dated 11/8/19 and page A2 dated 12/11/19 labeled "School House Plaza: Live Work Spaces".
24. The residential and commercial components shall remain residential and commercial and cannot be converted to an all residential or all commercial use without the approval of a modification of this use permit by the Planning Commission.
25. No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.
26. The commercial uses operating from the live/work spaces shall only be permitted uses in the CL Zone and shall not generate external noise, odor, flare, vibration or electrical interference detectible to the normal sensory perception by adjacent neighbors.
27. Prohibited uses in the live/work spaces are retail sales of food and/or beverages (does not include internet sales, mail order or off site catering), entertainment, drinking and public eating establishments, veterinary services including grooming and boarding or care of animals for hire or sale, businesses that involve the use of prescription drugs, Adult only businesses and the sales and repair of vehicles including bikes, automobiles, boats, motorcycles, aircraft, trucks or recreational vehicles.
28. A landscaping and irrigation bond/letter of credit shall be submitted with the building permit application which shall be held for 18 months after the fence, landscaping and irrigation is installed and approved by the Town to ensure the landscaping is established.
28. No live work bedroom exceed the maximum number of persons allowed in the IPMC and that bedrooms exceeding 100 square feet be limited to 3 adults or 2 adults and one child, 2 adults. This would allow the live work spaces to provide residences for up to 35 people, while not significantly increasing the amount of traffic accessing the site beyond what exists now
29. Conversion of tenant space(s) to additional live work or residential units beyond those in this approval without prior approval of modification of a Conditional Use Permit shall be grounds for revocation or modification of this Conditional Use Permit.

31. All tenants and the owner shall obtain all necessary construction permits prior to any work requiring permit(s) per California construction codes. Work occurring without required permit(s) shall be grounds for revocation or modification of this Conditional Use Permit.
32. Work without a required building permit will result in issuance of an immediate Stop Work Order and issuance of a citation to both the property owner and any tenant allowing/having the work done within their unit.
33. The applicant shall record a deed restriction restricting the 2 very low income rental units (suite #'s 8A3 and 8A4) to being very low income and two of the five low income rental units (suite #'s 10D and 10E) to being low income units, for 55 years.
34. The tenants of the above listed units shall complete and file with the Marin Housing Authority/Town of Fairfax annual income certification forms.
35. Any and all other requirements of the Marin Housing Authority necessary to ensure the live/work units stay affordable and are rented by very low and low income persons shall be complied with by both the property owner and the tenants.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring businesses or residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on December 19, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair Swift

Attest:

Ben Berto, Director of Planning and Building Services

SECTION 502 REQUIRED FACILITIES

[P] 502.1 Dwelling units. Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

❖ Every dwelling unit is to have at least one water closet, one lavatory, one kitchen-type sink and one bathtub or shower to meet the basic requirements for sanitation and personal hygiene.

The lavatory must be located in the same room as or near the door that leads to the water closet. This requirement makes it convenient for occupants to wash their hands after using the water closet, which is good practice for personal hygiene and greatly reduces the spread of germs and bacteria.

The required kitchen sink is intended to provide separate facilities for food preparation and dishwashing and is not intended for hand cleansing after using the toilet facilities, thus reducing the likelihood of contamination of surfaces that are subject to contact with food.

[P] 502.2 Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

❖ Rooming houses with shared bathroom and toilet facilities must conform to the following minimum number of fixtures: one water closet, one lavatory and one bathtub or shower (i.e., one bathroom group) for each four rooming units, or portion thereof.

For example, a house with 22 rooming units requires at least six bathroom groups of plumbing fixtures ($22 \div 4 = 5.5$; rounded up to 6).

[P] 502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

❖ Hotels with guestrooms that share bathroom and toilet facilities must conform to the following minimum number of fixtures: one water closet, one lavatory and one bathtub or shower for each 10 occupants, or portion thereof.

For example, a hotel with 22 occupants requires a minimum of three water closets, three lavatories and three bathtubs or showers, or a combination of three bathtubs and showers ($22 \div 10 = 2.2$; rounded up to 3).

[P] 502.4 Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

❖ To provide employees with sufficient sanitary facilities, every place of employment is to have at least one water closet, one lavatory and one drinking facility.

This is a minimum requirement that provides the employees with at least one toilet room for their use. Obviously, the number of employees working for a company will affect the adequacy of providing only one water closet and one hand sink. When economically and physically practical, the code official should encourage a place of employment to install the minimum number of plumbing facilities established in the IPC.

[P] 502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

❖ To reduce the potential of contaminating the water, drinking facilities must be separate from toilet rooms or bathrooms. Water shall be provided by a drinking fountain, water cooler, bottled water cooler or disposable cups located next to a sink or water dispenser.

The requirement for disposable cups should be monitored, as many diseases are transmitted through shared, unwashed or unsanitized eating and drinking utensils.

[P] 502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

❖ The purposes of this section are to establish minimum maintenance provisions for public toilet facilities and to ensure the availability of these facilities to the public at all times the building is occupied.

SECTION 503 TOILET ROOMS

[P] 503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

❖ To protect human dignity and modesty, all toilet rooms and bathrooms must afford privacy. Where toilet rooms or bathrooms are shared by building occupants in dormitories or boarding houses, there is to be a door with a locking device either for each water closet compartment in a toilet room/bathroom or that controls access to the toilet room/bathroom.

Passage through bathrooms and toilet rooms to get to other rooms, spaces, corridors or the exterior is inconvenient and could also jeopardize the means of egress because of locked doors, wet floors and obstructions.

[P] 503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

of stairs and shall have access from a common hall or passageway.

- ❖ Occupants of hotel units, rooming units, dormitory units or housekeeping units should not have to travel beyond the next adjacent story or pass through another occupant's unit to gain access to a bathroom or toilet facility. Convenient access to facilities is a basic necessity for their use and maintenance.

[P] 503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

- ❖ Employers are required to provide toilet facilities for employees within the employees' regular work areas. Employees should not have to travel more than 500 feet (152 m) or beyond the next adjacent story to reach the toilet room.

Employee toilet facilities can be for employees' use only or they can share customer facilities.

If toilet rooms are inconvenient or located too far from the work area, they create a physical hardship for employees.

This section does not require storage buildings and kiosks to contain toilet facilities, as long as there are toilet facilities in an adjacent building such that the distance from the work area to the toilet facilities does not exceed 500 feet (152 m). The building with the toilet facilities must be under the same ownership, lease or control as the storage area. Employers cannot expect their employees to depend upon neighborhood gas stations, stores or other businesses to provide access to toilet facilities.

[P] 503.4 Floor surface. In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

- ❖ A toilet room floor is much easier to maintain if the surface is smooth, hard and nonabsorbent. In areas such as toilet rooms where the public is likely to enter a facility, the primary concern remains keeping the floor area as clean as possible to safeguard against the spread of disease.

SECTION 504 PLUMBING SYSTEMS AND FIXTURES

[P] 504.1 General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are

designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

- ❖ All plumbing fixtures must operate adequately and perform their intended functions. Fixtures must drain quickly without permitting sewer gases to enter the structure. Fixtures are not to leak from either the water supply piping or the waste discharge piping.

Fixtures must not be worn or deteriorated so that they cannot be adequately cleaned. Kitchen sinks and lavatories that have defects that prevent them from being kept clean increase the likelihood that disease-causing organisms can be spread to food sources or from person to person. Fixtures with structural cracks can fail suddenly, possibly causing personal injury and further property damage.

[P] 504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

- ❖ Inadequate clearance between fixtures and adjacent surfaces can create confined spaces that allow disease and odor-causing bacteria to multiply. For proper sanitation, the fixture must have sufficient clearances for proper use and cleaning.

Although the code does not specify exact clearances between fixtures and adjacent surfaces, the code official must use good judgment and must review the required clearances for compliance with the IPC.

[P] 504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

- ❖ Any plumbing system having a deficiency or condition that is deemed by the code official as hazardous to the occupants or to the structure must be repaired or altered to eliminate the hazard. Hazards in a plumbing system include, but are not limited to, the following:

- Undersized piping.
- Inadequate venting.
- Cross connections.
- Lack of backflow prevention means.
- Lack of sufficient fixtures.
- Improperly installed piping, fixtures or fittings.
- Deteriorated, damaged, worn or otherwise defective piping, fixtures or fittings.
- Inadequately supported fixtures or piping.
- Inadequate water pressure or volume.

One of the most commonly encountered hazards is a submerged outlet in older-style fixtures in water closets, bathtubs, lavatories, laundry tubs and water softeners. Cross connections and improperly protected outlets greatly increase the likelihood that contaminated water will be introduced into the potable water supply.

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

- Section 503.2, which prohibits a toilet room from being the only passageway to a hall or other space from a bedroom.
- Section 505.4, which requires a provision for combustion air in bedrooms that contain a fuel-burning water heater.
- Sections 602.2 and 602.5 for minimum heat required in a bedroom.
- Section 605.2, which requires at least two separate and remote receptacle outlets in each bedroom.
- Section 702.4 for required emergency escape windows and doors in bedrooms.
- Section 704 for required smoke detectors in the vicinity of the bedrooms.

404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

❖ Overcrowding is often a problem in rental properties and in small, single-family dwellings. It can create serious problems; for example, disease spreads more easily, privacy is lost, mental health is affected and buildings are subject to more abuse and wear. Overcrowding can have a destructive effect on a whole neighborhood if it takes place in several houses on the same block or in several units in the same apartment building. Reducing overcrowding will reduce related health and safety hazards.

The code requires all types of dwelling units to comply with occupancy area requirements. There is no exception for owner-occupied houses; however, overcrowding of owner-occupied, single-family residences requires the careful thought and judgement of the code official to determine an appropriate course of action.

Proving that a building is overcrowded may be difficult. Tenants may lie about the number of occupants in their unit to avoid eviction. To determine the number of occupants, the code official may try to count beds or the names on mailboxes. Neighbors may also provide valuable information about the number of occupants and may be able to tell when the occupants are most likely to be home. It may be necessary to conduct inspections during evening hours in order to find an adult occupant at home. School enrollment records can also provide information on overcrowding.

Some communities have laws requiring an occupancy permit to be issued before a dwelling unit can be occupied. This allows the number of occupants shown on the application to be checked against the maximum occupancy of the dwelling unit as determined by an inspection [see Commentary Figure 404.5(1)].

Some floor plan arrangements would allow the dining and living room areas to be considered as combined dining/living/sleeping rooms. To illustrate the alternative analytical approach for the maximum number of occupants, consider the following example in which two analyses will be made: the first assumes only the three bedrooms are used for sleeping pur-

poses; the second assumes the living/dining area is to be counted as providing sleeping space [see Commentary Figure 404.5(2) for an example of an arrangement where the access to the kitchen is not through the dining/living room]. The requirement of Section 404.4.2, therefore, would be met and the maximum occupant load would be the highest of the following two analyses.

ANALYSIS 1 OCCUPANT LOAD ANALYSIS WITH NO COMBINED SLEEPING ROOM USAGE

1. Sleeping space: Section 404.4.1 indicates that 70 square feet (6.5 m²) is required for a room occupied by one person and 50 square feet (4.6 m²) per person is required for a room occupied by more than one person. In this example, we arrive at the following:

SLEEPING AREAS	ACTUAL AREA (SQUARE FEET)	ALLOWABLE NO. OF OCCUPANTS
Bedroom 1	113	2
Bedroom 2	127	2
Bedroom 3	92	1

For SI: 1 square foot = 0.0929 m².

At this point the maximum possible occupant load is five. It can be no higher due to lack of additional sleeping space.

2. Living, dining and kitchen space: Table 404.5 establishes the minimum required areas that will accommodate various numbers of occupants. By using Table 404.5, the following is derived:

SPACE	ACTUAL AREA (SQUARE FEET)	ALLOWABLE NO. OF OCCUPANTS
Living room	220	6 or more
Dining room	100	6 or more

For SI: 1 square foot = 0.0929 m².

3. Maximum allowable number of occupants: The actual living, dining and kitchen areas provide the maximum required space for six or more occupants; therefore, the maximum allowable number of occupants based on this analysis, which is five occupants, is governed by the sleeping space provided.

In this case, the living, dining and kitchen areas provide the minimum required space for any number of occupants. As such, if Bedroom 3 were 100 square feet (9.3 m²) rather than 90 square feet (8.4 m²), the maximum allowable occupant load would be six, rather than five, because Bedroom 3 would provide adequate sleeping space for two occupants.

ANALYSIS 2 OCCUPANT LOAD ANALYSIS WITH COMBINED LIVING/DINING/SLEEPING SPACE

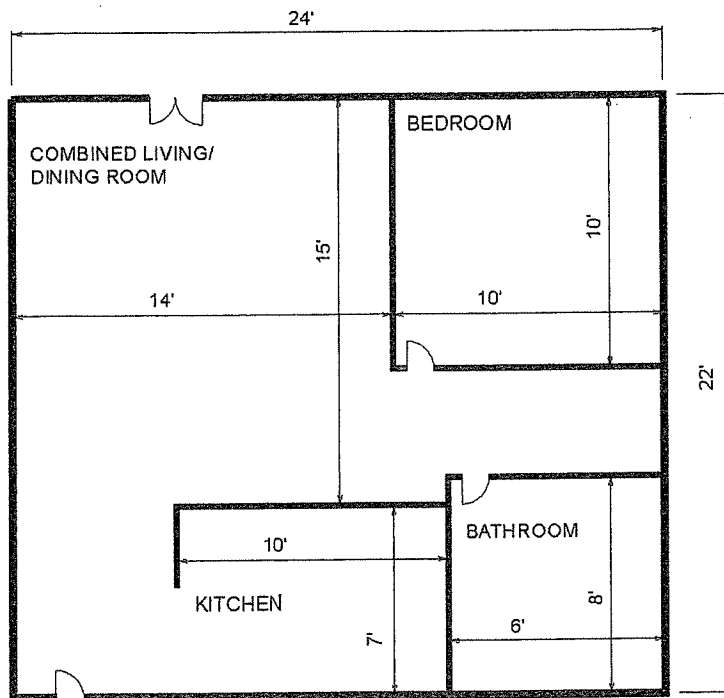
It was previously determined that the bedrooms provide sleeping space for five occupants and the living, dining and kitchen areas are adequate for any

number of occupants; however, the code does not prohibit the dual use of a room as living/sleeping or living/dining/sleeping, as long as the room meets the requirements for each intended use. In this example, the living/dining room could be considered a combined living/dining/sleeping room.

When determining the maximum occupant load for a combined living/sleeping or living/dining/sleeping room, Section 404.5.1 mandates that the minimum areas required by Table 404.5 are not to be included as sleeping areas; therefore, if the combined living/dining/sleeping room were used by one person for sleeping, at least 70 square feet (6.5 m²) is necessary (Section 404.4.1), leaving 250 square feet (23.2 m²) available for combined living/dining purposes [320 square feet (29.7 m²) total minus 70

square feet (6.5 m²) equals 250 square feet (23.2 m²)]. Table 404.5 and Section 404.5.2 would allow a combined living/dining room of 250 square feet (23.2 m²) to accommodate any number of occupants (six or more), which is the same as the first example. The total number of occupants for which a sleeping area is provided is now a maximum of six (the bedrooms accommodate five and the combined living/dining/sleeping room accommodates one); therefore, the maximum allowable occupant load based on this analysis would be six.

In this example the combined living/dining/sleeping room would be subject to all requirements for sleeping areas, including emergency escape windows (Section 702.4) and smoke detectors (Section 704).



MAXIMUM OCCUPANCY ALLOWED:

1. COMBINED LIVING/DINING ROOM = 210 SQ. FT.
THIS SPACE WOULD ACCOMMODATE NO MORE THAN FIVE OCCUPANTS IN ACCORDANCE WITH TABLE 404.5 AND SECTION 404.5.2.
2. KITCHEN = 70 SQ. FT.
THIS SPACE WOULD ACCOMMODATE AN UNLIMITED NUMBER OF OCCUPANTS IN ACCORDANCE WITH TABLE 404.5.
3. BEDROOM = 100 SQ. FT.
THIS SPACE WOULD ACCOMMODATE ONE OR TWO OCCUPANTS IN ACCORDANCE WITH TABLE 404.5.

BECAUSE THE BEDROOM WILL ONLY PERMIT A MAXIMUM OCCUPANCY OF TWO, THAT IS THE MAXIMUM OCCUPANCY FOR THIS ENTIRE UNIT. THE OCCUPANCY IS LIMITED TO THE MAXIMUM PERMITTED BY THE LEAST AREA PROVIDED IN ONE OF THE CATEGORIES IN TABLE 404.5.

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

**Figure 404.5(1)
MAXIMUM OCCUPANCY LOAD IN DWELLINGS**

DEFINITIONS

LIQUID TIGHT FLOOR. [SFM] *A nonpermeable barrier capable of containing hazardous material liquids without degradation.*

[F] LIQUID USE, DISPENSING AND MIXING ROOM. A room in which Class I, II and IIIA flammable or combustible liquids are used, dispensed or mixed in open containers.

[A] LISTED. Equipment, materials, products or services included in a list published by an organization acceptable to the building official and concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services and whose listing states either that the equipment, material, product or service meets identified standards or has been tested and found suitable for a specified purpose.

[HCD 1 & HCD 2] *"Listed" means all products that appear in a list published by an approved testing or listing agency. For additional information, see Health and Safety Code Section 17920(h).*

[SFM] *For applications listed in Section 1.11 regulated by the Office of the State Fire Marshal, "listed" shall also mean equipment or materials accepted by the state fire marshal as conforming to the provisions of the State Fire Marshal's regulations and which are included in a list published by the State Fire Marshal.*

LISTING AGENCY. [HCD 1 & HCD 2] *An agency approved by the department that is in the business of listing and labeling products, materials, equipment and installations tested by an approved testing agency, and that maintains a periodic inspection program on current production of listed products, equipment and installations, and that, at least annually, makes available a published report of these listings. For additional information, see Health and Safety Code Section 17920(i).*

LIVE/WORK UNIT. A dwelling unit or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant.

[BS] LIVE LOAD. A load produced by the use and occupancy of the building or other structure that does not include construction or environmental loads such as wind load, snow load, rain load, earthquake load, flood load or dead load.

[BS] LIVE LOAD, ROOF. A load on a roof produced:

1. During maintenance by workers, equipment and materials;
2. During the life of the structure by movable objects such as planters or other similar small decorative appurtenances that are not occupancy related; or
3. By the use and occupancy of the roof such as for roof gardens or assembly areas.

[BS] LOAD AND RESISTANCE FACTOR DESIGN (LRFD). A method of proportioning structural members and their connections using load and resistance factors such that no applicable limit state is reached when the structure is subjected to appropriate load combinations. The term "LRFD" is used in the design of steel and wood structures.

[BS] LOAD EFFECTS. Forces and deformations produced in structural members by the applied loads.

[BS] LOAD FACTOR. A factor that accounts for deviations of the actual load from the nominal load, for uncertainties in the analysis that transforms the load into a load effect, and for the probability that more than one extreme load will occur simultaneously.

[BS] LOADS. Forces or other actions that result from the weight of building materials, occupants and their possessions, environmental effects, differential movement and restrained dimensional changes. Permanent loads are those loads in which variations over time are rare or of small magnitude, such as dead loads. All other loads are variable loads (see also "Nominal loads").

LOBBY. [SFM, HCD 1 & HCD 2] *An area not defined as a waiting room at the entrance of a building through which persons must pass.*

LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONE. [SFM] *(See Chapter 7A, Section 702A for defined term.)*

LODGING HOUSE. [HCD 1 & HCD 1-AC] *Any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise, and that is occupied by the proprietor as the residence of such proprietor.*

LOG WALL CONSTRUCTION. [SFM] *(See Chapter 7A, Section 702A for defined term.)*

[A] LOT. A portion or parcel of land considered as a unit.

[A] LOT LINE. A line dividing one lot from another, or from a street or any public place.

LOW-ENERGY POWER-OPERATED DOOR. Swinging door which opens automatically upon an action by a pedestrian such as pressing a push plate or waving a hand in front of a sensor. The door closes automatically, and operates with decreased forces and decreased speeds (see "Power-assisted door" and "Power-operated door").

[F] LOWER FLAMMABLE LIMIT (LFL). The minimum concentration of vapor in air at which propagation of flame will occur in the presence of an ignition source. The LFL is sometimes referred to as "LEL" or "lower explosive limit."

LOWEST FLOOR. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of Section 1612.

MAIL BOXES. [DSA-AC] *Receptacles for the receipt of documents, packages or other deliverable matter. Mail boxes include, but are not limited to, post office boxes and receptacles provided by commercial mail-receiving agencies, apartment facilities or schools.*

[BS] MAIN WINDFORCE-RESISTING SYSTEM. An assemblage of structural elements assigned to provide support and stability for the overall structure. The system generally receives wind loading from more than one surface

MAJOR STRUCTURAL ALTERATIONS, ADDITIONS, OR REPAIRS. [OSHDP 1, 2 & 4] *Alterations, additions or*

ATTACHMENT C

Section 17958.1, efficiency dwelling units shall comply with the following:

1. The unit shall have a living room of not less than 220 square feet (20.4 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

SECTION R305 CEILING HEIGHT

R305.1 Minimum height. Habitable space, hallways and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet (2134 mm). Bathrooms, toilet rooms and laundry rooms shall have a ceiling height of not less than 6 feet 8 inches (2032 mm).

Exceptions:

1. For rooms with sloped ceilings, the required floor area of the room shall have a ceiling height of not less than 5 feet (1524 mm) and not less than 50 percent of the required floor area shall have a ceiling height of not less than 7 feet (2134 mm).
2. The ceiling height above bathroom and toilet room fixtures shall be such that the fixture is capable of being used for its intended purpose. A shower or tub equipped with a showerhead shall have a ceiling height of not less than 6 feet 8 inches (2032 mm) above an area of not less than 30 inches (762 mm) by 30 inches (762 mm) at the showerhead.
3. Beams, girders, ducts or other obstructions in basements containing habitable space shall be permitted to project to within 6 feet 4 inches (1931 mm) of the finished floor.

R305.1.1 Basements. Portions of basements that do not contain habitable space or hallways shall have a ceiling height of not less than 6 feet 8 inches (2032 mm).

Exception: At beams, girders, ducts or other obstructions, the ceiling height shall be not less than 6 feet 4 inches (1931 mm) from the finished floor.

SECTION R306 SANITATION

R306.1 Toilet facilities. Every dwelling unit shall be provided with a water closet, lavatory, and a bathtub or shower.

R306.2 Kitchen. Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink.

R306.3 Sewage disposal. Plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

R306.4 Water supply to fixtures. Plumbing fixtures shall be connected to an approved water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water.

SECTION R307 TOILET, BATH AND SHOWER SPACES

R307.1 Space required. Fixtures shall be spaced in accordance with the *California Plumbing Code*.

R307.2 Bathtub and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet (1829 mm) above the floor.

SECTION R308 GLAZING

R308.1 Identification. Except as indicated in Section R308.1.1 each pane of glazing installed in hazardous locations as defined in Section R308.4 shall be provided with a manufacturer's designation specifying who applied the designation, designating the type of glass and the safety glazing standard with which it complies, which is visible in the final installation. The designation shall be acid etched, sandblasted, ceramic-fired, laser etched, embossed, or be of a type that once applied cannot be removed without being destroyed. A label shall be permitted in lieu of the manufacturer's designation.

Exceptions:

1. For other than tempered glass, manufacturer's designations are not required provided that the building official approves the use of a certificate, affidavit or other evidence confirming compliance with this code.
2. Tempered spandrel glass is permitted to be identified by the manufacturer with a removable paper designation.

R308.1.1 Identification of multiple assemblies. Multipane assemblies having individual panes not exceeding 1 square foot (0.09 m²) in exposed area shall have not less than one pane in the assembly identified in accordance with Section R308.1. Other panes in the assembly shall be labeled "CPSC 16 CFR 1201" or "ANSI Z97.1" as appropriate.

R308.2 Louvered windows or жалюзи. Regular, float, wired or patterned glass in жалюзи and louvered windows shall be not less than nominal $\frac{3}{16}$ inch (5 mm) thick and not more than 48 inches (1219 mm) in length. Exposed glass edges shall be smooth.



USE AND OCCUPANCY CLASSIFICATION

Hotels (transient)
Motels (transient)

[HCD 1] Efficiency dwelling units (transient)

310.4 Residential Group R-2. Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (nontransient) with more than 16 occupants
- Congregate residences (nontransient) with more than 16 occupants
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (nontransient)
- Live/work units
- Monasteries
- Motels (nontransient)
- Vacation timeshare properties

[HCD 1] Efficiency dwelling units (nontransient)

310.4.1 Residential Group R-2.1. Residential Group R-2.1 occupancies shall include buildings, structures or parts thereof housing clients, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services.

This occupancy may contain more than six nonambulatory and/or bedridden clients. (See Section 435 Special Provisions for Licensed 24-Hour Care Facilities in a Group R-2.1, R-3.1 or R-4 Occupancy). This group shall include, but not be limited to, the following:

- Assisted living facilities such as:*
 - Residential care facilities,*
 - Residential care facilities for the elderly (RCFEs),*
 - Adult residential facilities,*
 - Congregate living health facilities,*
 - Group homes,*
 - Residential care facilities for the chronically ill,*
 - Congregate living health facilities for the terminally ill.*
- Social rehabilitation facilities such as:*
 - Halfway houses,*
 - Community correctional centers,*
 - Community correction reentry centers,*
 - Community treatment programs,*
 - Work furlough programs,*
 - Alcoholism or drug abuse recovery or treatment facilities.*

310.5 Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-2.1, R-3.1, R-4 or I, including:

- Buildings that do not contain more than two dwelling units
- Boarding houses (nontransient) with 16 or fewer occupants
- Boarding houses (transient) with 10 or fewer occupants
- Congregate residences (nontransient) with 16 or fewer occupants

Congregate residences (transient) with 10 or fewer occupants
[HCD 1] Efficiency dwelling units

Adult care facilities that provide accommodations for six or fewer clients of any age for less than 24 hours. Licensing categories that may use this classification include Adult Day Programs.

Alcoholism or drug abuse recovery homes (ambulatory only)

Child care facilities that provide accommodations for six or fewer clients of any age for less than 24 hours.

Licensing categories that may use this classification include, but are not limited to:

- Day-Care Center for Mildly Ill Children,*
- Infant Care Center,*
- School Age Child Day-Care Center.*

Family Day-Care Homes that provide accommodations for 14 or fewer children, in the provider's own home for less than 24-hours.

Foster family homes (ambulatory only)

Adult care and child care facilities that are within a single family home are permitted to comply with the California Residential Code.

Lodging houses with five or fewer guest rooms

310.5.1 Residential Group R-3.1. This occupancy group may include facilities licensed by a governmental agency for a residentially based 24-hour care facility providing accommodations for six or fewer clients of any age. Clients may be classified as ambulatory, nonambulatory or bedridden. A Group R-3.1 occupancy shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in Section 435 Special Provisions For Licensed 24-Hour Care Facilities in a Group R-2.1, R-3.1 or R-4 Occupancy. This group may include:

- Adult residential facilities*
- Congregate living health facilities*
- Foster family homes*
- Group homes*
- Intermediate care facilities for the developmentally disabled habilitative*
- Intermediate care facilities for the developmentally disabled nursing*
- Nurseries for the full-time care of children under the age of six, but not including "infants" as defined in Section 310*
- Residential care facilities for the elderly*
- Small family homes and residential care facilities for the chronically ill*

Exception: Group Homes licensed by the Department of Social Services which provide nonmedical board, room and care for six or fewer ambulatory children or children two years of age or younger, and which do not have any nonambulatory clients shall not be subject to regulations found in Section 435.

Pursuant to Health and Safety Code Section 13143 with respect to these exempted facilities, no city, county or pub-

assemblies constructed in accordance with Section 711, or both.

[F] **418.6 Finished products.** Storage rooms for finished products that are flammable or combustible liquids shall be separated from the processing area by not less than 2-hour fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both.

**SECTION 419
LIVE/WORK UNITS**

419.1 General. A live/work unit shall comply with Sections 419.1 through 419.9.

Exception: Dwelling or sleeping units that include an office that is less than 10 percent of the area of the dwelling unit are permitted to be classified as dwelling units with accessory occupancies in accordance with Section 508.2.

419.1.1 Limitations. The following shall apply to all live/work areas:

1. The live/work unit is permitted to be not greater than 3,000 square feet (279 m²) in area;
2. The nonresidential area is permitted to be not more than 50 percent of the area of each live/work unit;
3. The nonresidential area function shall be limited to the first or main floor only of the live/work unit; and
4. Not more than five nonresidential workers or employees are allowed to occupy the nonresidential area at any one time.

419.2 Occupancies. Live/work units shall be classified as a Group R-2 occupancy. Separation requirements found in Sections 420 and 508 shall not apply within the live/work unit where the live/work unit is in compliance with Section 419. Nonresidential uses which would otherwise be classified as either a Group H or S occupancy shall not be permitted in a live/work unit.

Exception: Storage shall be permitted in the live/work unit provided the aggregate area of storage in the nonresidential portion of the live/work unit shall be limited to 10 percent of the space dedicated to nonresidential activities.

419.3 Means of egress. Except as modified by this section, the means of egress components for a live/work unit shall be designed in accordance with Chapter 10 for the function served.

419.3.1 Egress capacity. The egress capacity for each element of the live/work unit shall be based on the occupant load for the function served in accordance with Table 1004.1.2.

419.3.2 Spiral stairways. Spiral stairways that conform to the requirements of Section 1011.10 shall be permitted.

419.4 Vertical openings. Floor openings between floor levels of a live/work unit are permitted without enclosure.

[F] **419.5 Fire protection.** The live/work unit shall be provided with a monitored fire alarm system where required by Section 907.2.9 and an automatic sprinkler system in accordance with Section 903.2.8.

419.6 Structural. Floors within a live/work unit shall be designed for the live loads in Table 1607.1, based on the function within the space.

419.7 Accessibility. Accessibility shall be designed in accordance with *Chapter 11A and/or 11B, when applicable* for the function served.

419.8 Ventilation. The applicable ventilation requirements of the *California Mechanical Code* shall apply to each area within the live/work unit for the function within that space.

419.9 Plumbing facilities. The nonresidential area of the live/work unit shall be provided with minimum plumbing facilities as specified by *the California Plumbing Code*, based on the function of the nonresidential area. Where the nonresidential area of the live/work unit is required to be accessible, the plumbing fixtures specified by *the California Plumbing Code* shall be accessible.

**SECTION 420
GROUPS R-1, R-2, R-2.1, R-3, R-3.1 AND R-4**

420.1 General. Occupancies in Groups R-1, R-2, R-2.1, R-3, R-3.1 and R-4 shall comply with the provisions of Sections 420.1 through 420.6 and other applicable provisions of this code.

420.2 Separation walls. Walls separating dwelling units in the same building, walls separating sleeping units in the same building and walls separating dwelling or sleeping units from other occupancies contiguous to them in the same building shall be constructed as fire partitions in accordance with Section 708.

420.3 Horizontal separation. Floor assemblies separating dwelling units in the same buildings, floor assemblies separating sleeping units in the same building and floor assemblies separating dwelling or sleeping units from other occupancies contiguous to them in the same building shall be constructed as horizontal assemblies in accordance with Section 711.

420.4 Smoke barriers in Group R-2.1. Smoke barriers shall be provided in Group R-2.1 to subdivide every story used by persons receiving care, treatment or sleeping and to provide other stories with an occupant load of 50 or more persons, into no fewer than two smoke compartments. Such stories shall be divided into smoke compartments with an area of not more than 22,500 square feet (2092 m²) and the distance of travel from any point in a smoke compartment to a smoke barrier door shall not exceed 200 feet (60 960 mm). The smoke barrier shall be in accordance with Section 709.

GENERAL BUILDING HEIGHTS AND AREAS

throughout in accordance with Section 903.3.1.1 and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.13 Covered and open mall buildings and anchor buildings. The area of covered and open mall buildings and anchor buildings not exceeding three stories in height that comply with Section 402 shall not be limited.

SECTION 508 MIXED USE AND OCCUPANCY

508.1 General. Each portion of a building shall be individually classified in accordance with Section 302.1. Where a building contains more than one occupancy group, the building or portion thereof shall comply with the applicable provisions of Section 508.2, 508.3 or 508.4, or a combination of these sections.

Exceptions:

1. Occupancies separated in accordance with Section 510.
2. Where required by Table 415.5.2, areas of Group H-1, H-2 and H-3 occupancies shall be located in a detached building or structure.
3. Uses within live/work units, complying with Section 419, are not considered separate occupancies.

508.2 Accessory occupancies. Accessory occupancies are those occupancies that are ancillary to the main occupancy of the building or portion thereof. Accessory occupancies shall comply with the provisions of Sections 508.2.1 through 508.2.4.

508.2.1 Occupancy classification. Accessory occupancies shall be individually classified in accordance with Section 302.1. The requirements of this code shall apply to each portion of the building based on the occupancy classification of that space.

508.2.2 Allowable building height. The allowable height and number of stories of the building containing accessory occupancies shall be in accordance with Section 504 for the main occupancy of the building.

508.2.3 Allowable building area. The allowable area of the building shall be based on the applicable provisions of Section 506 for the main occupancy of the building. Aggregate accessory occupancies shall not occupy more than 10 percent of the floor area of the story in which they are located and shall not exceed the tabular values for non-sprinklered buildings in Table 506.2 for each such accessory occupancy.

508.2.4 Separation of occupancies. No separation is required between accessory occupancies and the main occupancy.

Exceptions:

1. Group H-2, H-3, H-4, H-5 and L occupancies shall be separated from all other occupancies in accordance with Section 508.4.

2. Group I-1, R-1, R-2, R-2.1 and R-3 dwelling units and sleeping units shall be separated from other dwelling or sleeping units and from accessory occupancies contiguous to them in accordance with the requirements of Section 420.

3. No separation is required between Group B, E, R-2 sleeping units and S-2 occupancies accessory to Group I-2, I-2.1 and I-3 of Type I Construction.

508.3 Nonseparated occupancies. Buildings or portions of buildings that comply with the provisions of this section shall be considered as nonseparated occupancies.

508.3.1 Occupancy Classification. Nonseparated occupancies shall be individually classified in accordance with Section 302.1. The requirements of this code shall apply to each portion of the building based on the occupancy classification of that space. In addition, the most restrictive provisions of Chapter 9 which apply to the nonseparated occupancies shall apply to the total nonseparated occupancy area. Where nonseparated occupancies occur in a high-rise building, the most restrictive requirements of Section 403 which apply to the nonseparated occupancies shall apply throughout the high-rise building.

508.3.2 Allowable building area and height. The allowable building area and height of the building or portion thereof shall be based on the most restrictive allowances for the occupancy groups under consideration for the type of construction of the building in accordance with Section 503.1.

508.3.3 Separation. No separation is required between nonseparated occupancies.

Exceptions:

1. Group H-2, H-3, H-4, H-5 and L occupancies shall be separated from all other occupancies in accordance with Section 508.4.
2. Group I-1, R-1, R-2, R-2.1 and R-3 dwelling units and sleeping units shall be separated from other dwelling or sleeping units and from other occupancies contiguous to them in accordance with the requirements of Section 420.
3. No separation is required between Group B, E, R-2 sleeping units and S-2 occupancies accessory to Group I-2, I-2.1 and I-3 of Type I Construction.

508.4 Separated occupancies. Buildings or portions of buildings that comply with the provisions of this section shall be considered as separated occupancies.

508.4.1 Occupancy classification. Separated occupancies shall be individually classified in accordance with Section 302.1. Each separated space shall comply with this code based on the occupancy classification of that portion of the building.

508.4.2 Allowable building area. In each story, the building area shall be such that the sum of the ratios of the actual building area of each separated occupancy divided by the allowable building area of each separated occupancy shall not exceed 1.

School Street Plaza Live Work - Occupancy and 2019 Rent Guideline

Index	Address	Type	SqFt	Persons	Monthly Rent	Affordability	Bath
1	110	OFP	701	2	\$2,600.00 ±		ensuite 3/4
2	8A2	OFP	689	2	\$2,600.00 ±		ensuite 3/4
3 rev	8A3	1 BR	340	2	\$1,315.00	very low	ensuite 3/4
4 rev	8A4	1 BR	249	2	\$1,200.00	designated very low	ensuite 3/4
5 rev	8B2	OFP	670	2	\$2,600.00 ±	note 2	ensuite 3/4
6	8D	1 BR	1114	2	\$4,000.00 ±	note 3	ensuite 3/4
7	10C	2 BR	918	3	\$3,700.00 ±		ensuite 3/4
8	10D	1 BR	491	2	\$1,850.00 ±		ensuite 3/4
9	10E	1 BR	497	2	\$1,850.00 ±		ensuite 3/4
10	12B1	OFP	560	2	\$2,200.00 ±		ensuite 3/4
11 rev	12B2	OFP	266	2	\$1,150.00 ±	designated very low	ensuite 3/4
12	12C1	OFP	462	2	\$1,725.00 ±		ensuite 3/4
13	12C2	OFP	410	2	\$1,500.00 ±		ensuite 3/4
14	12D1	OFP	488	2	\$1,850.00 ±		ensuite 3/4
15 rev	12D2	1 BR	431	2	\$1725.00 ±		ensuite 3/4

- note 1 "OFP" is Open Floor Plan, "rev" is revised from previous edition
 note 2 has separate music rehearsal space as part of unit
 note 3 has full music recording studio as part of unit

rev 12/11/19

School Street Plaza Live Work - Area Use Guideline

Index	Address	Type	Persons	Total SqFt	Living SqFt	Work SqFt	Work Pct
1	110	OFP	2	701	350	351	50%
2	8A2	OFP	2	689	344	345	50%
3 rev	8A3	1 BR	2	340	150	190	56%
4 rev	8A4	1 BR	2	249	150	99	40%
5 rev	8B2	OFP	2	670	447	232 ²	35% ²
6	8D	1 BR	2	1114	467	647 ³	58% ³
7	10C	2 BR	3	918	476	442	48%
8	10D	1 BR	2	491	259	232	47%
9	10E	1 BR	2	497	251	246	49%
10	12B1	OFP	2	560	280	280	50%
11 rev	12B2	OFP	2	266	150	120	44%
12	12C1	OFP	2	462	231	231	50%
13	12C2	OFP	2	410	214	196	48%
14	12D1	OFP	2	488	245	243	50%
15 rev	12D2	1 BR	2	431	431	216	50%

Total 4445 4070 48%

rev 12/11/19

**MARIN COUNTY
RENTAL AFFORDABILITY FOR 2019**

2019 INCOME SCHEDULE (published by HUD April 24, 2019)

HH Size	Median Income	Very Low Income	Low Income	Low Income	Low Income	Low Income	Moderate Income
	100%	50%	60.00%	65.00%	70.00%	80.00%	90.00%
1	95,750	47,900	57,450	62,500	67,050	76,600	86,200
2	109,450	54,750	65,650	71,150	76,600	87,550	98,500
3	123,100	61,550	73,850	80,000	86,150	98,500	110,800
4	136,800	68,400	82,000	88,900	95,750	109,450	123,100
5	147,750	73,900	88,650	96,050	103,450	118,200	133,000
6	158,700	79,350	95,500	103,150	111,000	126,950	142,850

MAXIMUM RENT SCHEDULE - VERY LOW INCOME

Very Low Income rent @ 50.00% of median
Monthly rent, including utilities, may not exceed 1/12 of 30% of 50.00% of median income adjusted for household size.

HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	studio	47,900	3,992	1,198	43	\$1,155
2	1Br	54,750	4,563	1,369	51	\$1,318
3	2Br	61,550	5,129	1,539	71	\$1,468
4	3Br	68,400	5,700	1,710	93	\$1,617

MAXIMUM RENT SCHEDULE - LOW INCOME

Low Income rent @ 60.00% of median
Monthly rent, including utilities, may not exceed 1/12 of 30% of 60.00% of median income adjusted for household size.

HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	studio	57,450	4,788	1,436	43	\$1,393
2	1Br	65,650	5,471	1,641	51	\$1,590
3	2Br	73,850	6,154	1,846	71	\$1,775
4	3Br	82,000	6,833	2,050	93	\$1,957

MAXIMUM RENT SCHEDULE - LOW INCOME

Low Income rent @ 65.00% of median
Monthly rent, including utilities, may not exceed 1/12 of 30% of 65.00% of median income adjusted for household size.

HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	studio	62,500	5,208	1,563	43	\$1,520
2	1Br	71,150	5,929	1,779	51	\$1,728
3	2Br	80,000	6,667	2,000	71	\$1,929
4	3Br	88,900	7,408	2,223	93	\$2,130

MAXIMUM RENT SCHEDULE - LOW INCOME

Monthly rent, including utilities, may not exceed 1/12 of 30% of 70.00% of median income adjusted for household size.

HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	studio	67,025	5,585	1,676	43	\$1,633
2	1Br	76,615	6,385	1,915	51	\$1,864
3	2Br	86,170	7,181	2,154	71	\$2,083
4	3Br	95,760	7,980	2,394	93	\$2,301

MAXIMUM RENT SCHEDULE - MODERATE INCOME

Moderate Income rent @ 100.00% of median
Monthly rent, including utilities, may not exceed 1/12 of 30% of 100.00% of median income adjusted for household size.

HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	studio	95,750	7,979	2,394	43	\$2,351
2	1Br	109,450	9,121	2,736	51	\$2,685
3	2Br	123,100	10,258	3,078	71	\$3,007
4	3Br	136,800	11,400	3,420	93	\$3,327

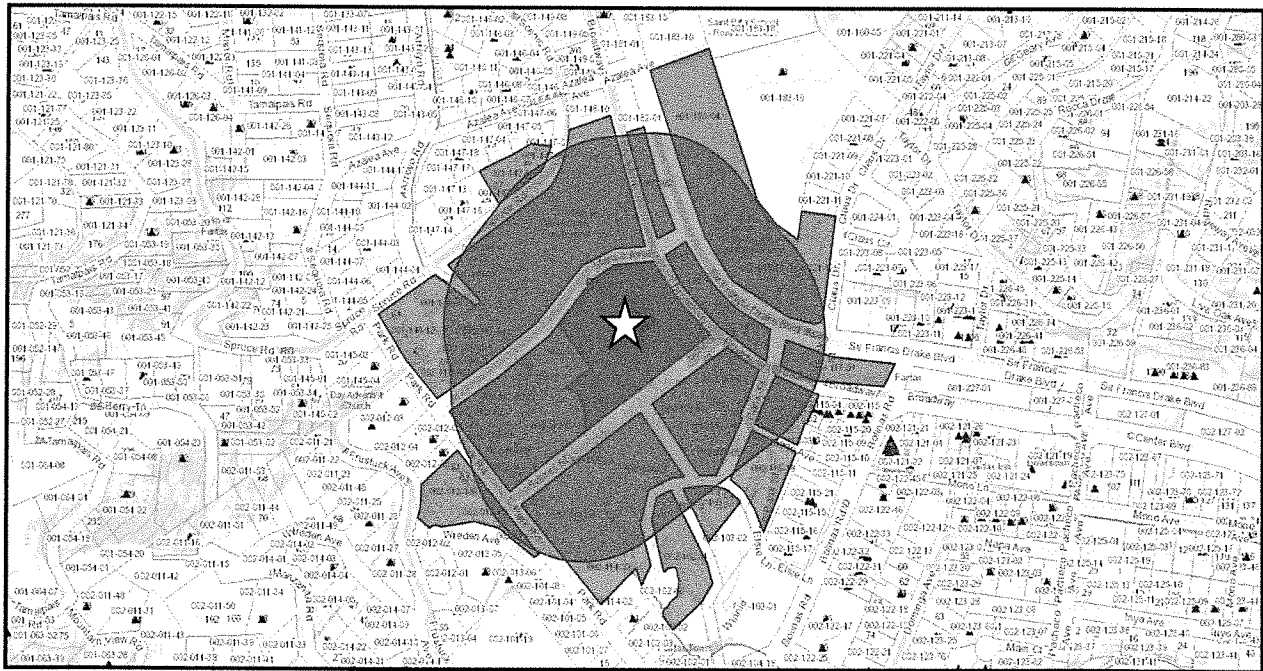
The Income schedule shown above is based on the 2019 Area Median Income for Marin County published by HUD (4/24/19)

Utilities are based on the Section 8 allowances for electric heating and cooking & gas water heating published on 12/2018

TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: October 17, 2019
FROM: Ben Berto, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 6 School Street Plaza; Assessor's Parcel No. 002-112-13
PROJECT: Conversion of 14 commercial spaces to live/work units
ACTION: Conditional Use Permit, Design Review Permit and Fence Height Variance; Application # 19-14
APPLICANT: Fred Ezazi
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(a) and (e)(1)



SCHOOL STREE PLAZA

BLDG. 6: SUITES 110, 270 & 280; BLDG. 8: SUITES 8A2, 8B & 8D; BLDG. 10: SUITES 10C, 10D & 10E; BLDG. 12: SUITES 12B-1, 12C-1, 12C-2, 12D-1 & 12D-2

BACKGROUND

The approximately 83,699 square-foot site (1.9 acre) is level where the structures are located and slopes down to the Fairfax Creek which runs along a portion of the southern property line. The level area is also at a higher elevation than the streets of Broadway and Merwin Avenue that run along the site's west and east property lines. The Fairfax Pavilion and the developed and undeveloped portions of the School Street right-of-way are located to the east, Broadway runs along the north side of the site, and Fairfax Lumber is located to the west, across Merwin Avenue.

The site was the location of Fairfax School from 1921 through 1954, when the original structures were torn down and replaced with the existing school buildings, which have become Buildings 8, 10 and 12 School Street Plaza.

It is not clear from the Town records when the public school site was sold to a private owner, but the zoning was changed to CL in 1976, when a developer submitted an application to convert use of the school buildings to commercial. The applicant at the time was Neil Bloomfield, and the owner was listed as the Fairfax School District.

In 1978-79 the Town approved the 6,084 square-foot, 2-story commercial structure at the corner of Broadway and School Street, bringing the total area of commercial buildings to 20,119 square feet. At that time, the Town approved the project allowing the property to comply with the specific parking requirements for personal service businesses and offices found in the Parking Ordinance, Town Code §§17.052.030(F) and (G) rather than the more general restrictive parking standard of 1 parking space for each 200 square feet of commercial space contained in the Limited Commercial Zone District Regulations [Town Code § 17.092.110(B) (2)(a)]. The applicable parking standards approved by the Town at that time are 3 spaces for the first 500 square-feet of commercial space and 1 space for each additional 500 square feet. The site contains 62 parking spaces. 42 spaces are required under the personal service and office standards.

In 2005 the Planning Commission granted a use permit application to allow the conversion of one of the commercial units (12A in Building 12) into an on-site manager's apartment.

For whatever reason, the Town has historically had difficulty with use of School Street Plaza property for residential, versus personal service and office uses. It may be because the plaza is located some distance from the main Sir Francis Drake and Bolinas commercial nexus, or because the spaces, once the size of school classrooms, have been split into smaller areas, which limits the commercial uses that can operate there, and which certainly cannot accommodate certain permitted CL uses such as hospitals, rest homes, and laboratories.

It is interesting to note that many of the uses that currently exist at School Street now are similar to the uses that existed there in 1976 when the zoning was changed to Limited Commercial (CL). For example:

1976: Health Spa (Relax), Dance Studio, Chiropractor, Doctor's office, martial arts studio, restaurant

2019: Hot Tubs/Massage Spa (Frogs), Physical therapy and massage therapy, yoga studio, offices, hair salon.

At some point in the past year or two, the owner has gated off the stairway at the corner of Broadway and Merwin Avenue that led from the parking lot down to the sidewalk. The property owner claims to have been forced to do so because of ongoing garbage dumping. The Fire Department has not noted any fire access/egress issues with this closure.

The Town has had to repeatedly abate over the years the use of the spaces for living units without the required approval of a Conditional Use Permit from the Planning Commission. Residential uses are listed as conditional uses in the CL Zone per Town Code §17.092.050(A), along with motels and hotels. A record search of the property files revealed that the only prior residential Conditional Use Permit applied is the manager's office living space at 12A, Building 12, issued by the Town in 2005.

Another source of complaints has been people loitering in the recessed alcoves behind suites 8D, 8B and 8A2. As can be seen currently, some tenants have attempted to combat this by enclosing the area with informal fences.

During recent inspections of the property prompted by fires occurring in building 6 and building 8, the Town determined that the fire locations, as well as a number of the other suites on the property, were being used for both living and commercial business purposes.

At that point staff advised the owner that if some of the suites were going to be used as live/work spaces, he would have to apply for, and be granted, a Conditional Use Permit by the Planning Commission, to legalize those uses. An inspection by staff of the property on June 19, 2019 revealed that 12 of the units were already being used as live/work units and one of the spaces was under construction being remodeled into a live/work space without a building permit.

DISCUSSION

The applicant is proposing to legalize the 14 live/work spaces on the site, bringing them into compliance with current building and fire code requirements. The proposed project includes a 700 square-foot expansion of three of the suites in building 8, (8A2, 8B and 8D) and legalization and completion of a 5 foot metal fence located on top of the

existing wall resulting in a security fence/wall structure that varies in height from 7 feet 2 inches to 9 feet 4 inches feet along portions of the property street frontage.

The expansion encloses 3 partially enclosed areas where school children used to wait, out of inclement weather, for their classrooms to be opened. The area has presented a constant security problem for both the owner and the Fairfax Police Department providing partially hidden areas that back up to the ballfield. The areas tend to attract people who loiter and cause problems for tenants and people using the public path and bridge that accesses Peri Park and the Women's Club area. The enclosure additions would provide 233 additional square feet of area for the 3 units and decrease the attractiveness of the area as a location to hang out.

The purpose of the CL Zone District is to "provide a location for uses which may be incompatible with the high density characteristics of the Central Commercial CC Zone or which may have difficulty in finding a property location in the Highway Commercial CH Zone. The uses in the CL limited commercial zone are oriented to services rather than to the retail sale of commodities."

Town Code §17.092.050(A) allows residential uses in the CL Zone with a Conditional Use Permit issued by the Planning Commission and Town Code §17.092.050(E) gives the Planning Commission the authority to determine whether other uses not specifically listed in the conditional use section of the CL Zone chapter are equivalent to those listed. The section also allows the Commission to determine other uses to be equivalent to those listed in the permitted use section of the CL Zone but requiring regulations of location, extent or operation become of some unique characteristic.

Staff determined that the proposed live work spaces which combine permitted physical therapy and professional offices with the conditional residential uses require the approval of a Conditional Use Permit by the Planning Commission.

Issues that arise with live/work spaces typically include conflicts between residential and commercial uses, shortage of parking and/or traffic. Staff has analyzed these different issues with respect to the project and discusses them in this staff report.

The proposed live work spaces offer a variety of work space versus living space areas as follows:

	Building & Suite No.	Living Space Square-feet	Work Space Square-feet	Total Square-feet
1	Bldg. 6, Ste. 110 (1 st floor)	328	373	701
2	Bldg. 6, Ste. 270 (2 nd floor)	338	77	416
3	Bldg. 6, Ste. 280 (2 nd floor)	98	95	193
4	Bldg. 8, Ste. 8A2	374	299	673
5	Bldg. 8, Ste. 8B	436	254	690
6	Bldg. 8, Ste. 8D	501	613	1,114
7	Bldg. 10, Ste. 10C	476	442	918
8	Bldg. 10, Ste. 10D	397	98	495
9	Bldg. 10, Ste. 10 E	248	254	502
10	Bldg. 12, Ste. 12B-1	225	334	559
11	Bldg. 12, Ste. 12C-1	240	222	462
12	Bldg. 12, Ste. 12C-2	214	196	410
13	Bldg. 12, Ste. 12D-1	178	310	488
14	Bldg. 12, Ste. 12D-2	223	208	431

Number of Residents and Ratio of Work Space to Living Space

A review of other jurisdictions with Live/work Housing has revealed that some of them include a 750 square-foot minimum size requirement for live-work housing (Novato, Larkspur). Most of the jurisdictions in the Bay Area that have adopted live/work codes do not require a minimum size beyond the State Housing Code minimum size limitation of 150 square-feet.

Most jurisdictions limit the location of the residential space with respect to the commercial space in the unit, allowing residential uses only at the rear of the work space and/or only on the second floor (San Rafael and Mill Valley). The location of living space in relation to the work space restrictions constitute good planning because most tenants would not want to have to escort a customer, IT repair person or delivery person through their private living spaces to the work area.

In a cursory review of other bay area communities that allow live work units, only Berkeley has a limitation on the proportion of the unit's living space area to its commercial area, stipulating that only 40% of the live/work space square footage can be used for residential. This limitation was included because Berkeley wanted, "to permit Live/Work Units that function predominately as workspaces and secondarily as residences" and "To assure that the division of space between living and working space within these units reflects the priority of workspace" [Berkeley Municipal Code § 23E.20.020(G and (H))].

More generally, the International Property Management Code requires that bedrooms provide at least 70 square feet for a bedroom occupied by at least one person and that

50 square feet per person be provided for bedrooms accommodating more than 1 person. If a room is to be used as both a workspace and a bedroom, the bedroom square footage must be at least 70 square feet. Compliance by the property owner with the International Property Management Code will limit the number of persons that will be able to dwell in the live work spaces to the following:

	Suite #	# of bedrooms	Bedroom(s) sq. ft.	# Persons allowed per IPMC
1	Bldg. 6, Ste. 110 (1 st floor)	1	99	1
2	Bldg. 6, Ste. 270 (2 nd floor)	1	80	1
3	Bldg. 6, Ste. 280 (2 nd floor)	2	80, 144	2
4	Bldg. 8, Ste. 8A2	1	231	4
5	Bldg. 8, Ste. 8B	1	254	5
6	Bldg. 8, Ste. 8D	1	231	3
7	Bldg. 10, Ste. 10C	3	110, 90, 90	4
8	Bldg. 10, Ste. 10D	2	117, 140	4
9	Bldg. 10, Ste. 10 E	1	110	2
10	Bldg. 12, Ste. 12B-1	1	95	1
11	Bldg. 12, Ste. 12C-1	1	90	1
12	Bldg. 12, Ste. 12C-2	1	90	1
13	Bldg. 12, Ste. 12D-1	1	91	1
14	Bldg. 12, Ste. 12D-2	1	132	2

Note: IPMC = International Property Management Code

Staff is not concerned about the ratio of work space to living space because with many new jobs being done remotely via the internet, many businesses only need a small space to accommodate an office operated by one person.

Staff is concerned about the possibility that the spaces may become strictly residential, losing the commercial component that is required to maintain the live/work status of the units and no longer maintaining consistency with the service commercial character of the zoning CL district.

Other communities have included in their live work ordinances, the following conditions to assist them in maintaining their live work spaces (adapted for potential applicability to School Street Plaza):

1. Live/work quarters shall be occupied and used only by a business operator, or a family of which at least one member shall be the business operator.

2. The living portion of the unit shall be incidental to the workspace and the live/work space shall be maintained and classified as a business use. There shall be an interior connection between the live and work portions of the unit.
3. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.
4. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations.
5. Leases for the live work spaces must include the following: "As the occupant of a live/work space, by selecting this type of occupancy, I accept the conditions found in the area including but not limited to, commercial noise, pollution, fumes, dirt, traffic and odors to the extent that they are permitted by law in the CL Zone district".
6. There shall be no storage of flammable liquids or hazardous materials beyond that normally associated with a residence use. Storage of flammable liquids and hazardous materials beyond that normally associated with a residential use, such as for an artist studio, shall only be allowed through prior written modification of this use permit and approval from the Ross Valley Fire Inspector and Fairfax Building Inspector.
7. The living space may not be rented or sub-let separately from the work space.
8. There shall be no signs or advertising in conjunction with a live/work facility, except for a 2 square-foot sign for each business attached to the door, window or exterior wall of that business.
9. An adequate refuse storage area shall be provided for all the commercial and live/work spaces in the School Street Plaza complex.
10. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of any new lighting to meet this condition shall be to the satisfaction of the Planning Director and Building Official. A minimum lumen level of one foot-candle at ground level shall be provided in all exterior doorways, pedestrian travel pathways, stairways and vehicle parking areas. (Staff will include the following in the resolution should the project be approved: An exterior lighting plan shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the Planning Director and Building Official prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary to light the rear deck, and shall avoid direct offsite illumination).

11. The residential use of the live/work spaces shall not interrupt or modify the external appearance of the commercial building frontage (i.e. no storage of barbecue, lounge chairs, excessive plantings in pots out-side the buildings).
12. The commercial and residential components shall be restricted to the live/work units and shall not be conducted in the walkways, rear yard area or parking lot of school street plaza.
13. The commercial and residential components of the live/work spaces as designated on the floor plans approved through this use permit shall remain as depicted in the plans dated 8/12/19 labeled "School House Plaza: Live Work Spaces".
14. The residential and commercial components shall remain residential and commercial and cannot be converted to an all residential or all commercial use without the approval of a modification of this use permit by the Planning Commission.
15. No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.
16. The commercial uses operating from the live/work spaces shall only be permitted uses in the CL Zone and shall not generate external noise, odor, flare, vibration or electrical interference detectible to normal sensory perception by adjacent neighbors.
17. Prohibited uses in the live/work spaces are retail sales of food and/or beverages (does not include internet sales, mail order or off site catering), entertainment, drinking and public eating establishments, veterinary services including grooming and boarding or care of animals for hire or sale, businesses that involve the use of prescription drugs, adult only businesses and the sales and repair of vehicles including bikes, automobiles, boats, motorcycles, aircraft, trucks or recreational vehicles.

Staff believes that with incorporation of all of the above as project conditions, the live/work spaces can be kept in compliance with the Conditional Use Permit, and conflicts between the live/work spaces and the strictly commercial spaces will be minimized. Staff has included them as conditions of approval in the attached draft Resolution No. 2019-17 recommending approval of the proposed Conditional Use Permit.

The School Street site is zoned for commercial use. In order to retain the primarily commercial use of the property, staff has included in the resolution recommending approval of this Conditional Use Permit the condition that no live work bedroom exceed the maximum number of persons allowed in the IPMC and that bedrooms exceeding

100 square feet be limited to 3 adults or 2 adults and one child. This would allow the live work spaces to provide residences for up to 32 people, while not significantly increasing the amount of traffic accessing the site beyond what exists now.

The building code allows residential units to share bathrooms as long as the number of units sharing a bathroom does not exceed 4 units. The application proposes to have suites 270 and 280 on the second floor of building 6 share a bathroom. The bathroom would be created by expanding one of the upstairs ½ bathrooms into a full bath through the expansion of the bathroom into what is currently a utility closet to provide a shower.

The application has labeled some of the rooms behind the work spaces as living and/or dining rooms in a number of units. Staff is considering those rooms bedrooms because there really is no way to ensure that the rooms are not used for bedrooms. These rooms must be provided with exits that conform to building and fire codes for bedrooms, to ensure that persons that might choose to sleep in these rooms can escape in the case of an emergency. The Town should not simply rely on stated or even written intentions of the property owner and/or the tenants that they will not sleep in these rooms as an adequate safety precaution, especially in light of the willful violations that led to the Ghost Ship fire and that have occurred on the project site in the past. If a room is separated from the other available exits by a wall and door, it must be provided with operable windows that open to provide an escape route (per the Town of Fairfax Building Official).

Parking and Traffic

The proposed 700 square-foot expansion increases the required number of parking spaces for the commercial complex from 42 to 43, and 62 spaces are provided.

The complex was constructed with 62 parking spaces, exceeding the minimum required 42 on-site parking spaces by 20 spaces.

Staff has conferred with the Town Traffic Engineer who has verified that per their calculations based on the conversion of 7,351 square-feet of commercial space to live/work and the 700 square-foot expansion of 3 of the live/work units and the remaining 12,067 square-feet of service commercial, the average daily traffic (ADT) generated by the School Street Plaza should actually decrease by 82 trips. Therefore, conversion of the proposed units to live/work spaces will not increase the traffic to the site beyond that which would occur if the spaces remained fully commercial, and should not require the provision of additional parking or the issuance of a Traffic Impact Permit per Town Code § 17.056.050(A)(1).

For a complete list of the existing businesses currently operating from the School Street Plaza see Attachment B.

Design Review

The design of the building to be altered is a typical “California public school building” design with not much articulation except for doors and windows with a flat roofline. The building matches the architecture of the other old school building on the site. The façade of the buildings that face the parking lot has been softened through the erection of vine covered trellis structures. The approximately 700 square-foot addition is proposed at the rear of suites 8A2, 8B and 8D in building 8, where the proposal is to enclose three sheltered recessed areas where staff presumes that school children formerly used in inclement weather. The addition has been designed to match the exterior of the existing building both with minor changes in the numbers and size of window, and relocation of the 3 rear doors accessing the spaces.

The siding for the new additions will be board and batten painted grey (Sherwin Williams, Knitting Needles, SW7672), the doors and door trim will be blue (Sherwin Williams, Poolhouse, SW7603, the window trim will be a tan color (Jeld Wen windows, Desert Sand, vinyl or fiberglass) and the safety fence along Broadway and Merwin Avenue fence will be open, with square metal posts painted in semi-gloss black paint (Sherwin Williams, Black of Night, SW 6993).

The area of the addition is not adjacent to any residential structures, it faces the ball field and Pavilion and the new walls will match the existing building construction and color. No new exterior lighting is proposed at this time and any future changes to the exterior lighting will have to comply with the following which staff has included as a condition of the project approval:

An exterior lighting plan showing existing and proposed lighting locations and fixtures shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the Planning Director prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary to light the entryways travel paths, stairways and parking lot and shall avoid direct offsite illumination.

The proposed project design complies with the design review criteria set forth in Town Council §17.020.040.

2010-2030 Fairfax General Plan Compliance

The proposed conversion of 14 of the suites at School Street Plaza into live/work spaces complies with the Fairfax General Plan policies and programs as follows:

LU-7.1.3: A combination of commercial and residential land uses that are consistent with established building height limits should be encouraged on the same parcel.

LU-8.1.1: The Town of Fairfax shall facilitate the development of key housing opportunity sites to provide for the development of affordable housing as identified in the Housing Element

LU-8.1.1.5: Change the zoning designation for the School Street Plaza area from Limited Commercial to Planned District Development; thereby making it possible to accommodate a mix of uses including housing and/or a new school at the site.

C-6.3.2: Promote mixed-use development to provide housing and commercial services near employment centers, thereby reducing the necessity of driving.

H-4.1.1.1: Rezone School Street Plaza from CL to PDD thereby making it possible to accommodate at least 9 units of housing.

H-4.1.1.3: Acceptance of Live/Work Development. Town Staff will prepare, for consideration and approval by the Planning Commission and Town Council, flexible standards that provide opportunities for live/work developments, where housing can be provided for workers on-site and/or caretaker or other types of housing can be provided. Revise the Town Zoning Ordinance.

The site is identified as an opportunity site with potential for low-income or affordable housing in-fill development in the 2010-2030 Fairfax General Plan. The adopted 2015-2023 Fairfax Housing Element proposes rezoning the site to Planned Development PDD District allowing at least 9 units of low income or affordable residential units and the proposed 14 live/work spaces would make progress towards this goal, even without the anticipated Zoning Change to Planned Development District.

Fence Height Variance

The applicant was stopped by the Building Official while in the process of erecting a 5 foot tall black metal fence along the top of portions of the rock wall that runs along the Broadway and Merwin Avenue frontage of the property.

Several different sections of the Zoning Ordinance govern any fence placed on the project site. Town Code 17.040.020 requires that the structures on corner parcels maintain a setback from any street frontage of 10 feet but Town Code §17.044.080(B)(1) allows 4 foot fences and retaining walls within the 10 foot setback. Town Code §17.008.020, Definition of Structure, includes fences as structures.

The Town has historically measured the height of a fence or a combined fence/retaining wall structure such as the one being proposed, from the side of the fence/wall facing the lowest finished grade to the top of the fence/wall because that is the side where the fence structure will have the greatest visual impact/solar impact. Therefore, the combination fence/rock wall structure being proposed by the applicant along Broadway will be approximately 7 ft. 8 in. in height above the sidewalk grade with the rock wall being 2 feet 8 inches in height and the metal fence another 5 feet on top of the wall.

The existing retaining wall along Merwin varies in height from 2 ft. 6 in. to 5 ft. 9 in. The metal fence proposed along this side of the site would be 2 ft. 9 in. on top of the wall

that will result in a fence/wall structure that varies in height from 5 ft. 3 in. to 8 ft. 6 in. in height.

The applicant has indicated in his written supplemental information that the purpose of these tall combination fence/retaining walls is to stop people from jumping off the walls and has indicated that the fence/walls were recommended by his insurance company.

The site has been used for many years, first as a school and then as commercial space, and the Town does not have any records of people being injured in conjunction with jumping or falling off the wall. It is possible that the act of blocking the stairs leading from the parking lot down to the public sidewalk at the corner of Merwin Avenue and Broadway has resulted in people trying to shortcut their travel paths to reach the public sidewalk by cutting through the landscaped areas and jumping from the wall to the public sidewalk. The owner advised staff that he was forced to fence the stairs because people were hanging out there and smoking, drinking and dumping garbage and old household goods on the stairway. A well placed security camera might allow the fences to be removed from the stairway area eliminating the need for people to cut through the landscaped areas to reach the public sidewalk as well as discouraging people from hanging out on the stairs or using them to dump unwanted items.

Staff believes that there are adequate landscaping areas to the rear of the proposed fence/wall locations the 5 ft. tall fence could be constructed and/or be relocated to 3 feet back from the top of the retaining wall. A landscaped bed between the fence and the wall would stop people from jumping off the walls just as well as the larger combined fence/wall structure and it would be visually much more appealing.

The fence is metal with large spacing between the metal slats so the fence does not present a solid face towards the street which helps soften the visual impact of the combined fence/wall structure. Staff does not believe that this factor alone is enough to enable the Commission to make all the required findings for approval of a fence height variance for a fence reaching 10 ft. 9 in. in height.

In order to approve a fence/retaining wall height variance the Planning Commission needs to be able to make the following legal findings:

Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.

The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.

The strict application of this title would result in excessive or unreasonable hardship.

The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Staff believes that granting a height variance to allow a 7 ft. 6 in. to 10 ft. 9 in. combined fence/wall structure would be grant of special privilege especially since the goal to keep people from jumping off the rock and concrete walls can be accomplished in a more visually appealing and just as effective way with a 5 foot tall fence, set back at least 3 feet from the walls with landscaping in between. Therefore, we are recommending approval of a fence height variance for a 5 foot tall wall, setback a minimum of 3 feet from the existing walls with irrigated landscaping between the fence and the wall structures.

Other Agency/Department Comments/Conditions

Ross Valley Fire

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

- A fire sprinkler system is required throughout the entire building which complies with the requirements of the National Fire protection Association standards 13 and 72, California Fire Code, Chapter 9, 2016 edition and local standards and the system must be U.L. certified and be monitored by a U.L. listed Fire Alarm monitoring company, smoke and carbon monoxide detectors shall be located in each live/work unit in compliance with the building code and the smoke detectors shall be provided with AC power and be interconnected, address numbers at least 4" tall shall be in place adjacent to each front door and be lighted in a manner acceptable to the Ross Valley Fire Department, separation of not less than 1 hour shall be provided between live/work suites and adjacent live/work or commercial suites.

Fairfax Building Department

Egress windows must be installed in all back rooms of suites 10C, 10D and 10E.

Marin Municipal Water District, Ross Valley Sanitary District, Fairfax Police Department and Fairfax Public Works Department.

No comments were received from the Marin Municipal Water District, Ross Valley Sanitary District, the Fairfax Police Department or the Fairfax Public Works Department.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 19-04 by adopting Resolution No. 2019-17, approving the proposed expansion, the conversion of 14 suites to live/work spaces, a modified fence design and setting forth the findings and the conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 2019-17

Attachment B – applicant's supplemental information

Attachment C – list of current tenants

SUPERCEDED SEE ATTACHMENT A

RESOLUTION NO. 2019-17

A Resolution of the Fairfax Planning Commission Approving Application # 19-14 for a Conditional Use Permit, Design Review Permit and a Retaining Wall Height Variance for 14 Live/Work Units, A 700 Square-foot Expansion of 8 School Street Plaza and for 5 Foot Tall Fence Set Back from the Existing Wall Along Broadway and Merwin Avenue at School Street Plaza, 6, 8, 10 and 12 School Street.

WHEREAS, the Town of Fairfax has received an application for Use Permit for 14 live/work units, a Design Review Permit for a 700 square foot addition to building 8 and a fence height variance for a 7 ft. 4 in. to 10 ft. 9 in. combination fence/retaining wall structure along Broadway and Merwin Avenue; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Conditional Use Permit, Design Review Permit and a modified Fence Height Variance for at 5 foot metal fence; and

WHEREAS, based on the plans and supplemental information provided by the applicant, as well as the testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Use Permit, Design Review Permit and Fence Height Variance for a 5 foot tall fence; and

WHEREAS, the Commission has made the following findings

The proposal complies with the Fairfax General Plan Policies and Programs as follows:

LU-7.1.3: A combination of commercial and residential land uses that are consistent with established building height limits should be encouraged on the same parcel.

LU-8.1.1: The Town of Fairfax shall facilitate the development of key housing opportunity sites to provide for the development of affordable housing as identified in the Housing Element

LU-8.1.1.5: Change the zoning designation for the School Street Plaza area from Limited Commercial to Planned District Development; thereby making it possible to accommodate a mix of uses including housing and/or a new school at the site.

C-6.3.2: Promote mixed-use development to provide housing and commercial services near employment centers, thereby reducing the necessity of driving.

H-4.1.1.1: Rezone School Street Plaza from CL to PDD thereby making it possible to accommodate at least 9 units of housing.

OUT. STAFF REPORT
ATTACHMENT A

H-4.1.1.3: Acceptance of Live/Work Development. Town Staff will prepare, for consideration and approval by the Planning Commission and Town Council, flexible standards that provide opportunities for live/work developments, where housing can be provided for workers on-site and/or caretaker or other types of housing can be provided. Revise the Town Zoning Ordinance.

Use Permit Findings

The approval of the Conditional Use Permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment as long as the conditions of approval that follow in this resolution are complied with.

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

Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010-2030 Fairfax General Plan and Title 17 of the Fairfax Town Code, Zoning.

All of the live/work spaces are already occupied, except one that is under construction, and operating as live/work commercial spaces with live-in tenants. Therefore, approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Fence Height Variance Findings

The much higher elevation of the developed portion of the site from the public roadway and pedestrian sidewalks is the special circumstance that warrants the approval of a fence height variance for a 5 foot tall fence set back at a minimum of 3 feet from the retaining wall that enclosed the site along its Broadway and Merwin Avenue property lines.

The variance or adjustment will not constitute a grant of special privilege because fence height variances have been granted on other corner lots and the 1 foot height increase above the 4 foot fence height that is allowed, due to the slope of the site in the area of the fence is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.

The strict application of this title would result in excessive or unreasonable hardship.

The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Design Review Finding

The project, redesigned with a 5 foot fence set back a minimum of 3 feet from the existing wall complies with the design review criteria. (Town Code § 17.020.040).

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

1. The project is limited to the development depicted in the plans dated 8/12 19 pages A0 through A3, with the fence redesigned setback from the existing wall a minimum of 3 feet with the separating area landscaped and irrigated.
2. If it is determined that any lighting beyond that which exists on the site now is required to meet building code/safety requirements a final exterior lighting plan shall be submitted with the building permit application and shall be approved by the Planning Director prior to issuance of the building permit, shall be dark-sky compliant and shall limit light-spillage beyond the areas necessary to light access pathways and the outdoor patio, and shall avoid direct offsite illumination.
3. The applicant shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
4. 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, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
5. Any other changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission or Planning Director as required.
6. 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 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.

7. The project final inspection and issuance of the occupancy permit shall not occur until all the building, fencing and landscaping are completed and approvals have been received from all agencies and departments with jurisdiction over the project.
8. There shall be no storage of any materials, supplies for the business outside the building.
9. Failure to comply with the conditions for modified Use Permit # 19-14 as herein enumerated, may result in revocation or modification of the Conditional Use Permit by the Planning Commission, in accordance with Chapter 17.024 of the Fairfax Town Code (section 17.024.090, grounds for revocation and 17.024.100, grounds for modification).
10. Any equipment installed on the either the roof or exterior of the building must be screened from public view.
11. Live/work quarters shall be occupied and used only by a business operator, or a family of which at least one member shall be the business operator.
12. The living portion of the unit shall be incidental to the workspace and the live/work space shall be maintained and classified as a business use. There shall be an interior connection between the live and work portions of the unit.
13. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.
14. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations.
15. Leases for the live work spaces must include the following:

"As the occupant of a live/work space, by selecting this type of occupancy, I accept the conditions found in the area including but not limited to, commercial noise, pollution, fumes, dirt, traffic and odors to the extent that they are permitted by law in the CL Zone district".
16. There shall be no storage of flammable liquids or hazardous materials beyond that normally associated with a residence use. Storage of flammable liquids and hazardous materials beyond that normally associated with a residential use, such as for an artist studio, shall be allowed only through a modification of this use permit and approval from

the Ross Valley Fire Inspector and Fairfax Building Inspector.

17. The living space may not be rented or sub-let separately from the work space.
18. There shall be no signs or advertising in conjunction with a live/work facility, except for a 2 square-foot sign for each business attached to the door, window or exterior wall of that business.
19. An adequate refuse storage area shall be provided for all the commercial and live/work spaces in the School Street Plaza complex.
20. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of any new lighting to meet this condition shall be to the satisfaction of the Planning Director and Building Official. A minimum of one foot-candle at ground level shall be provided in all exterior doorways, pedestrian travel pathways, stairways and vehicle parking areas. An exterior lighting plan shall be submitted with the building permit application and any new external lighting shall use dark sky compliant fixtures and shall be approved by the Planning Director and Building Official prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary to light the rear deck, and shall avoid direct offsite illumination.
21. The residential use of the live/work spaces shall not interrupt or modify the external appearance of the commercial building frontage (i.e. no storage of barbecue, lounge chairs, excessive plantings in pots out-side the buildings).
22. The commercial and residential components shall be restricted to the live/work units and shall not be conducted in the walkways, rear yard area or parking lot of school street plaza.
23. The commercial and residential components of the live/work spaces as designated on the floor plans approved through this use permit shall remain as depicted in the plans dated 8/12/19 labeled "School House Plaza: Live Work Spaces".
24. The residential and commercial components shall remain residential and commercial and cannot be converted to an all residential or all commercial use without the approval of a modification of this use permit by the Planning Commission.
25. No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.
26. The commercial uses operating from the live/work spaces shall only be permitted uses in the CL Zone and shall not general external noise, odor, flare, vibration or electrical interference detectible to the normal sensory perception by adjacent neighbors.
27. Prohibited uses in the live/work spaces are retail sales of food and/or beverages (does

not include internet sales, mail order or off site catering), entertainment, drinking and public eating establishments, veterinary services including grooming and boarding or care of animals for hire or sale, businesses that involve the use of prescription drugs, adult only businesses and the sales and repair of vehicles including bikes, automobiles, boats, motorcycles, aircraft, trucks or recreational vehicles.

28. A landscaping and irrigation bond/letter of credit shall be submitted with the building permit application which shall be held for 18 months after the fence, landscaping and irrigation is installed and approved by the Town to ensure the landscaping is established.

29. No live work bedroom exceed the maximum number of persons allowed in the IPMC and that bedrooms exceeding 100 square feet be limited to 3 adults or 2 adults and one child. This would allow the live work spaces to provide residences for up to 32 people, while not significantly increasing the amount of traffic accessing the site beyond what exists now.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Use Permit can occur without causing significant impacts on neighboring businesses or residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on October 17, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair Swift

Attest:

Ben Berto, Director of Planning and Building Services

PROJECT DESCRIPTION: installing Rod Iron Fence Total of ± 2000'
as Safety Fence To stop people jump over the wall
and getting injured.

it is Safety fence Recommended by
the insurance Co.

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size ± 1.92 ACRES	1.94 ACRES	same
Size of structure(s) or commercial space (square feet)	± 200' fence at 3 Location	
Height and No. of stories	N/A	
Lot coverage	✓	
No. of dwellings units	✓	
Parking ¹ No. of spaces	✓	
Size of spaces	✓	

Amount of proposed excavation and fill	Excavation = N/A	Fill = N/A
--	------------------	------------

Estimated cost of construction \$ ± 6000. -

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade and all impervious surfaces except driveways.

¹Minimum parking dimensions are 9' wide by 19' long by 7' high. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? NO

J. Egan
 Signature of Property Owner

3/18/19
 Date

F. Egan
 Signature of Applicant

3/18/19
 Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584

OCTOBER STAFF REPORT

ATTACHMENT B

Variance - Additional information required.

- Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

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

Some people jumping over the wall going from
park lot to out side of
The fence will be put in as safety need to prevent
any injerion.
softy Fence

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.

*installing fence intended to prevent injuries.
(SAFTY Need)*

Attachment A: School Street Plaza Table of Tenants as of August 13, 2019

SEP 27 2019

October staff report

ATTACHMENT C

Building	Suite	Business Name	Description of Services	Products sold on site	Open to public?	Hours	Type of Business/Use	Requested Planning Action	Section - This Application
6	100	noticed for service (leak)					Professional office	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	120	Barbara Swift Brauer	Creative writing	None	Private	-	Professional office		
	130	Dan Clark, ESQ.	Attorney - Tax	None	Private	-	Professional office		
	140	Dandelion Vital Salon	Cosmetologist	None	No walk in	by appl	Professional salon		
	150	vacant					..art... studios		
	160	vacant					Professional office		
	170	EduTracks	Financial Advisory - Sustainability	None	Private	-	Professional office		
	180	Centrafit, LLC.	Foundation	None	Private	-	Professional office		
	200	Marin Alliance	Medical cannabis dispensary	Cannabis	Private	10AM-8PM	Professional office		
	210	Marin Alliance			Yes		CUP (1996)		
220	vacant								
230	PFAFF/Wilson - Boucher		CPA	None	Private	by appl	Professional office		
240	Inner Nature Sanctuary		Physical Therapy	None	No walk in	by appl	Professional office		
250	David Mizrah		Financial Advisory	None	Private	by appl	Clinics... therapy		
260	Vida Nature		Admin Office - Nature School	None	Private	-	Professional office		
270	A & G Studios		Music Studio	None	Private	-	Professional office		
280	Biggit's Boats		Interior Designer - Boating	None	Private	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
8	A1	Morgan Hall Architect	Architect	None	Private	by appl	Professional office	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	A2	vacant			No walk in	by appl	Professional office		
	B1	Lotus Hand Healing Arts			No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	B2	vacant			Private	by appl	Clinics... therapy		
	C	Tom Finch Studios			No walk in	by appl	..art... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	D	Soundwave Studios			No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
10	A	Frogs	Physical Therapy - Water	None	No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	B	Frogs		None	Yes	11A-midnight	Clinics... therapy		
	C	Meltacne			No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	D	Laura Bedford Studios			No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	E	Guenilla Marketing			Private	by appl	Office, Financial	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
12	A	Resident Manager	Financial Advisory - Marketing	None	Private	by appl	Office, Financial	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	B1	Studio Elsewhere	NA		Private	NA	CUP #05-43		
	B2	Vaska by Anica	Art Studio	None	Private	-	..art... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	C1	Earth Spa	Design Studio - Fashion art	None	Private	-	..art... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	C2	Beautyweaving	Physical Therapy	None	No walk in	by appl	Clinics... therapy	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	D1	Earth Goddess	Art Studio	None	No walk in	by appl	..art... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	D2	vacant	Music/Dance Studio	None	No walk in	by appl	Music... studios	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)
	E	So! Studios			No walk in	9AM-7PM	Clinics... therapy	CUP Work Live/Live Work	17.092.050(A) & 17.092.050(A)(3)

Section, Quick Reference (BOLD typeface is part of this application request)
 Conditional uses 17.092.050(A)
 Accessory uses 17.092.050(C)
 Motels and Hotels, residential uses
 Offices for principal uses

resolution...”; 5) On page 7, MMWD (30) shall read: “All the District’s.. *in effect...*”; the reference to a Height Variance in the last sentence shall be deleted.

AYES: Fragoso, Gonzalez-Parber, Newton, Rodriguez, Chair Swift
NOES: Kehrlein
ABSENT: Green

Chair Swift stated there was a 10-day appeal period.

The Commission took a 10-minute break at 9:18 p.m.

- 3. 6, 8, 10, and 12 School Street Plaza: Application #19-15**
Request for a Conditional Use Permit and Design Review Permit for a minor expansion to building #8 and conversion of the following 14 commercial suites into live-work units: Bldg. 6 #'s 110, 270 and 280; Bldg. 8 #'s 8A2, 8B and 8D; Bldg. 10 #'s 10C, 10D and 10E; Bldg. 12 #'s 12B-1, 12C-1, 12C-2, 12D-1 and 12D-2; Assessor’s Parcel No. 002-112-13; Limited Commercial CL Zone; Fred Ezazi, applicant/owners; CEQA categorically exempt per Section 15301(a) and (e)(1) and 15303(c).

Commissioner Newton recused herself from this item due to personal interest.

Principal Planner Neal presented the staff report.

Commissioner Gonzalez-Parber had a question about the location of the fence. Principal Planner Neal stated it would start northwest of the two story structure on the corner of School Street and Broadway follow around the corner on Merwin. She asked the Commission to look at the large site plan.

Commissioner Kehrlein asked if the chain link fence at the top of the slope on Merwin would remain. Principal Planner Neal stated the applicant could answer this question.

Commissioner Rodriguez referred to page 6 and had a question about the chart and how the International Property Management Code limits the number of persons allowed to live in a unit. She asked about the number of units identified in this Housing Element “identified housing site”. Principal Planner Neal stated at least nine. Commissioner Rodriguez asked if any of the units would need to be affordable. Planning Director Berto stated “no”. Commissioner Rodriguez asked if there was any mechanism that could be used to obtain an affordable housing project on this site. Planning Director Berto stated it is difficult to mandate affordable housing without an inclusionary/affordable housing requirement. The Town is in the process, in conjunction with other Marin County jurisdictions, in developing such a code. Commissioner Rodriguez asked if they could require an affordability aspect, without an inclusionary ordinance, if the property were rezoned to Planned Development District (PDD). Planning Director Berto stated that would be difficult since utilizing the PDD designation can be problematic.

Chair Swift referred to the staff report, page 2, the first sentence of the sixth paragraph and asked for an explanation. Principal Planner Neal stated staff has received complaints over the years about people living on the property. Chair Swift asked if the Fire Department prepared a report about the two fires that occurred on the property. Planning Director Berto stated it was determined that the units in question had been being used as residences. Chair Swift asked about the International Property Management Code and its relevance. Principal Planner Neal stated this code is used to determine how much space was needed per person for a bedroom. Chair Swift asked how many people live there now. Principal Planner Neal stated that was a question for the applicant. Chair Swift had questions about accessibility issues. Principal Planner Neal stated that would be addressed during the Building Permit stage. Chair Swift referred to the staff report, page 8, #17 and

asked about off-site catering and food preparation. Principal Planner Neal stated they would have to comply with Building and Health Department regulations. The Commission could prohibit this use. Chair Swift asked if there was any division between the office/ work and live space or if it was all one space. Principal Planner Neal stated some are one space and some are separated- there is no requirement for complete separation.

Commissioner Fragoso referred to Suite 10-C, page A-1 (existing floor plans) and stated the allowance was for three bedrooms and four inhabitants. The plans did not show any bedrooms. Principal Planner Neal stated the Town has no way to control whether the rooms are used for bedrooms but there has to be approved safety exits if the rooms could be used as bedrooms. The "dining room" could be used as a bedroom. Commissioner Fragoso asked if the suite could have a hot-plate if no kitchen was identified. Principal Planner Neal stated the Building Code would require a hard-wired cooking surface. Hot-plates would not be allowed. Commissioner Fragoso asked if there would be a fine to legalize the existing units. Principal Planner Neal stated "yes- they would pay the permit fee plus 50% of that fee".

Commissioner Gonzalez-Parber referred to Sheet A-2, Building 6, Suite 270 (second floor) and asked if this is an example of a space that would have the same egress/ventilation requirements of a bedroom. Principal Planner Neal stated she would need to ask the Building Official about these details.

Chair Swift opened the Public Hearing.

Mr. Rick Hamer, representing the applicant, made the following comments:

- Commercial tenants have been living on the property for a long time in a "work/live" situation.
- The number of people living at the property varies- it is usually between 10 to 20 individuals in the 14 units addressed in the permit. Nine units are currently being lived in.
- There are 36 total units on the property all governed by a commercial lease.
- The fence would provide safety.
- The owner is willing to put in necessary egress windows in every partitioned space identified by the Town.
- They plan to bring in a consultant to do a lighting plan.
- The owner will resolve any un-permitted work installed by tenants over the years.
- They plan to implement a lease addendum that is specific to live/work and will address conditions #11-18, 24-27, and 29. Condition #19 is already in place, #21-23 are designated in the plans. He referred to item #28 and stated there was established landscaping.
- The chain link fence will be replaced with the proposed metal fence.
- They are looking at a residential occupancy of one to three.
- The current rental level falls in the moderately affordable class as defined in the 2015 Housing Element.
- The separation of spaces are indicated in the plan- a living area is not to be used for commercial purposes and the work area is to be used for work. These areas are not always divided by a wall.
- Kitchen areas are identified in the plans and will be hard-wired.
- Some of the remodels will comply with ADA requirements but the residential portions will not be subject to ADA.
- The manager's unit will not change.

Commissioner Fragoso asked about the rents (\$2,200 for 600 square feet) and noted all but one or two of the proposed 14 units fall in that category. She asked if they would be willing to provide some lower income rental prices, at least for the smaller units. Mr. Hamer stated most of the units have an established rental price. The smaller units would rent for substantially less than \$2,000.

Commissioner Kehrlein asked about the purpose of the fence since there were other access points. She asked how they could secure the property when there were major access points that need to be open. Mr. Hamer stated the intent is to have people come "through the front door".

Commissioner Gonzalez-Parber asked why they wanted to install the fence at the retaining wall and not push it back to the blacktop. Mr. Ezazi stated he wants to keep people from jumping off the wall. Principal Planner Neal stated they were limited to a four foot high fence anywhere within ten feet from the street frontage- a five foot fence moved back would require a variance.

Lake made the following comment:

- Setting the fence back three feet from the wall would result in a landscape maintenance problem.

Chair Swift closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- She sees the building as an artist enclave which is core to the economic development of Fairfax.
- This site is a major thoroughfare for the library, ballfield, etc.
- It has historically been occupied by low income artists.
- The plans do not reflect a live/work project and do not give them the mainstay of what is there- affordable housing and support of artists.
- The plans do not show the degree of ingress/egress, kitchens, bathrooms, etc.
- The landscaping could be enhanced and they could delete the fence idea.
- She does not support the application.
- She would like staff to start on an Inclusionary Ordinance.

Commissioner Fragoso provided the following comments:

- She agreed that the plans are lacking a level of detail.
- She understood they were trying to fix an illegal situation and make safety improvements.
- She is supportive of a live/work situation but not at unaffordable levels.
- Landscaping, rather than fencing, could provide security.

Commissioner Kehrlein provided the following comments:

- It looked like the fence could be pushed along Broadway to the edge of the parking lot pavement and she was not sure she could make the Fence Height Variance Findings.
- She liked the concept and felt it could solve some of the Town's problems.
- She would like more information on the proposed rents. These units should qualify for low-income.
- She could not support the fence on the retaining wall- it could be moved back.
- She supported a continuance.

Commissioner Gonzalez-Parber provided the following comments:

- She supported the concept- it is a great idea.
- She would like to see more detail in the kitchens in terms of the location of the sink, the refrigerator, the stove, etc.
- She had a problem with the ratio of living space vs. commercial and would like to use the California Residential Building Code instead of the IPMC in terms of size, etc. She would be comfortable with a 50/50 ratio. Commissioner Kehrlein stated there is a "live/work" section in the Building Code and it is considered a residential designation.
- Now is the time to set the standard for future "live/work" spaces.
- She would like to see a method of designating the number of persons allowed per unit (per square footage, per room, etc.).
- She would like to see where the bedrooms are located, a furniture lay-out, etc.

- She likes the fence style but a five-foot fence on that tall retaining wall would feel unfriendly to people walking on the sidewalk. She could support a five-foot fence if it were pushed back. They could put in a service gate if they decided to put it closer to the cars.
- She could not support the proposed design and supported a continuance.

Chair Swift provided the following comments:

- She is concerned with the live/work concept. They are trying to take care of a building situation that has people living there unpermitted.
- The General Plan talks about a zoning designation that would allow live/work residential units in the Central Commercial (CC) Zone. It is not discussed in the CL Zone.
- There is nothing in the code that addresses live/work at all.
- They have not done anything about the size of spaces.
- There has not been enough research to come up with a concept that works for the community.
- She is not comfortable looking at this application without looking at the broader live/work type of zoning.
- She asked if there was a way to mitigate any hazards on the property wait on the live/work aspect until they do more research.
- She would like to see ordinances from other communities.

Commissioner Rodriguez provided the following comment:

- She agreed with Chair Swift's concerns about taking a broader approach.
- She reiterated that she would like to see staff develop an Inclusionary Ordinance.

Commissioner Gonzalez-Parber provided the following comments:

- She also agreed with Chair Swift's concern but stated she was conflicted- this could take years to adopt an ordinance.
- They are trying to address a situation that exists and make it safe.
- This is a homegrown issue and she would like to continue the application.

Commissioner Fragoso provided the following comments:

- They are looking at a health and safety code enforcement situation that the owner is trying to resolve. They are then trying to "slap on" the live/work design criteria.
- This is a good, first effort.
- They should address the code issues with some health and safety solutions and then move forward with a more detailed concept and proposal for the units.

Commissioner Gonzalez-Parber provided the following comments:

- She asked about a temporary solution. Planning Director Berto stated they could look at the areas designated as bedrooms and work with the applicant to correct things that are immediate safety hazards. This could be done on a staff level.
- She asked if there was an expiration date on this application.

Commissioner Kehrlein provided the following comment:

- Any future plans should include dimensions, setbacks, window sizes, etc.

M/s, Kehrlein/Gonzalez-Parber, motion to continue this item to a date uncertain.

AYES: Fragoso, Gonzalez-Parber, Kehrlein, Rodriguez, Chair Swift

RECUSED: Newton

ABSENT: Green

The Commission took a 5-minute break at 11:15 p.m.

Commissioner Newton returned to the dais.

**WORK/LIVE ADDENDUM
(JOINT LIVE AND WORK UNIT)**

**Short Template
EDITS ARE ONGOING
TO THIS DOCUMENT**

**School Street Plaza
Fairfax, CA 94930**

**WORK/LIVE ADDENDUM
(JOINT LIVE AND WORK UNIT)**

This addendum is made part of the Lease Agreement dated _____

between _____ ("Lessee") and Ezazi and Associates, LLC ("Lessor") for the premises at School Street Plaza ("the Community"); 6-12 School Street, Fairfax, CA 94930. If the Agreement conflicts with this addendum, this addendum will prevail, except that any provision which is manually typed or handwritten will prevail over any preprinted provision.

1. Work/Live Units. Some of the units in the Community are joint work and live units (the "live/work units" or "work/live units") which can be used for both business uses and conditionally used for residential purposes. Lessee's unit is a work/live unit. The terms "living space" or "conditional living space" shall mean the area for the residential use and "working space" shall mean the area for the commercial use. The conditional living space on the premises will be designated with the addition of the letter "R" to the unit number of the "space." This addendum documents specific agreements between Lessor and Lessee regarding the premises in connection with the mixed use. The modified or amended section of the original Lease Agreement is noted at the end of each section of this addendum (as {§ [number]}).

2. Business License Required. (a) IMPORTANT: BEFORE occupying the premises, a current Town of Fairfax Business License shall be provided to the Lessor and posted in a conspicuous place near the entry to working space at all times. Renewals of the Town of Fairfax Business License shall be provided to the Lessor before January 31st of subsequent calendar years.

(b) At least one actual occupant of the unit shall be named on, or traceable to the business license by way of public records. Examples include but are not limited to: A sole proprietor operating under a fictitious business name shall have a currently registered fictitious business name registered with the County of Marin with which the occupant's name is used. A corporation or an LLC shall have a statement of information filed with the California Secretary of State which lists the occupant's name as an officer, director, RME, partner or agent. This verification shall be completed before occupying the premises.

(c) Lessee's use of the premises without a current business license in accordance with conditions (a)(b) above will be a material breach of this lease.

(d) After the completion of this Lease Agreement term, the Lessee will not be eligible for a subsequent Lease Agreement unless, upon review by the Lessor or the Lessor's Manager, Lessee's Business License, underlying public business documents and the unit's actual occupant names match. The Lessor shall complete the review at least 30 days but no more than 60 days prior to the expiration of the Lease Agreement.

3. Use. (a) Working Space. Lessee may use the working space only for the purpose of

operating a _____

[describe agreed upon use, e.g., an insurance office]

("the business") Lessee may not use the premises for any other purpose without Lessor's written consent. Consent will be granted or denied at Lessor's sole and absolute discretion based on Lessor' assessment of factors including (but not limited to) the property Conditional Use Permit. Specific business uses that will not be approved by Lessor include (but are not limited to):

- (1) businesses that operate between 10 p.m. and 7 a.m.;
- (2) any use that may potentially generate electrical interference, noise, vibration, flare and/or odors that may be objectionable to other Lessees of the Community, such as restaurants and breweries,
- (3) any use that may be objectionable in other ways to other Lessees of the Community;
- (4) any use that may potentially add a significant burden to the Community development;
- (5) any use prohibited under the terms of the Town of Fairfax Conditional Use Permit: retail sales of food or beverages, entertainment, drinking and public eating establishments, veterinary services (including grooming and boarding or care of animals for hire or sale), businesses that involve the use of prescription drugs, adult only businesses, sales and repairs of vehicles (including bikes, automobiles, boats, motorcycles, aircraft, trucks or recreational vehicles);
- (6) any other use which is not permitted under applicable law, including but not limited to Chapter 17 Planning and Zoning of the Town of Fairfax Code or codes which apply to mixed use developments, joint live work in certain commercial zones or CL zoning.

Lessee Initials _____

PRELIMINARY DRAFT NOT FOR DISTRIBUTION

During the course of Lessee' tenancy, Lessee will not use the premises in any manner that would not be approved by Lessor and Lessor' Management, consistent with the restrictions above. The business may be operated only between the hours of 7:00 a.m. and 10:00 p.m. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation as to the suitability of the premises for Lessee's intended use, and that Lessee is responsible for obtaining any necessary government permits and approvals required as a result of Lessee's business use of the premises.

(b) Living Space. Only while all requirements of § 2 and § 3(a) (above) are satisfied by the Lessee, the conditional living space of the premises may be used as a residence only and only by Lessee(s). The living space shall not be rented separately from the work space. No business use may be made of the living space of the premises and Lessee' business customers shall not use any portion of the living space (i.e. Bathrooms, kitchen, etc.) without Lessor' prior written consent and except when permitted under applicable law. (§ 3, 4)

(c) Safety. The Lessee agrees to keep the Ross Valley Fire Department Occupancy Contact Info form current for occupants of the living space. If the Lessor uses electrical multi-outlet taps such as surge strips, the Lessor agrees to use models with an integral overcurrent circuit breaker. Smoke detectors and any safety equipment furnished by the Lessor shall not be altered, made inoperative or removed from the premises. The Lessee shall not alter any permanent electrical receptacles, fixtures, switches or apparatus affixed to the building without prior written authorization of Lessor.

(d) Scope of Materials Defined as Hazardous. Storage of flammable liquids or hazardous materials not normally associated with a residence use, as determined by the Ross Valley Fire Inspector, require prior approval. Prior written permission by the Lessor; prior approval by the Town of Fairfax Building Inspector and Ross Valley Fire Inspector; and, at the Lessee's expense, a separate modification to the Conditional Use Permit, in advance. (§ 20)

4. Signs, Windows and Aesthetics. Signage visible from common areas and walkways is limited to a total of 2 square feet in area.

5. ADA and Handicapped Accessibility. The living space of the unit is not designed or intended for business use, and may not be fully accessible to the handicapped. If Lessee allows business or public use of the living space, the use will be a material breach of this lease and Lessee will be fully responsible for all ADA and handicapped accessibility liability. Lessee will hold harmless, indemnify, and defend the Lessor and Lessor from liability for any claims associated with Lessee' use of the premises. This will be done at Lessee' expense with counsel chosen by Lessor. (§ 34)

6. Changes and Additions to Buildings. Without the Lessor' prior written consent, Lessee may not construct tenant improvements on the premises.

7. Other Tenancies. Lessor reserves the absolute right to effect any other tenancies in the Community as Lessor, in its sole business judgment, may choose. Lessee does not rely on the fact, nor does Lessor represent, that any Lessee under any lease in effect as of the date of this Agreement will not assign or transfer its interest under its lease or change the use of the premises under such lease, or that any specific Lessee or type or number of Lessees may, during the term of this Agreement, either (i) enter into a lease for any space in the Community or (ii) continue to lease any space in the Community under any lease which is in effect as of the date of this Agreement. By executing this Agreement, Lessee acknowledges that Lessor has not made any representations, warranties or statements as to any of the foregoing and agrees that the occurrence of any of the foregoing or any similar event may not affect Lessee' obligations under this Agreement. Lessor reserves the absolute right to restrict the use of the "space" from Lessee use in the event Lessee cannot (a) evidence use of the working space of the premises by at least one resident of the living space to perform or oversee the commercial activity to be performed in the working space or (b) demonstrate compliance with the terms of this Addendum. Lessor restriction of use of the working space will not terminate the use of the living space of the premises by the Lessee for the remainder of the period stated in the Lease Agreement, provided that Lessee continues to comply with all provisions of the Lease Agreement.

Lessee Initials _____

PRELIMINARY DRAFT NOT FOR DISTRIBUTION

8. **Severability.** In the event that a court of competent jurisdiction finds any term or clause in this Agreement to be invalid, unenforceable, or illegal, the same will not have an impact on other terms or clauses in the Agreement or the entire Agreement. However, such a term or clause may be revised to the extent required according to the opinion of the court to render the Agreement enforceable or valid, and the rights and responsibilities of the parties shall be interpreted and enforced accordingly, so as to preserve their agreement and intent to the fullest possible extent.

9. **Town of Fairfax Definition of Tenant "Nuisance Behavior".** The Town of Fairfax uses the term "nuisance behavior" as applied to tenancy. "Nuisance behavior" is defined as: The tenant, after written notice to cease and the passage of a reasonable period of time to abate or cure, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the landlord or other tenants of [the Community] containing the dwelling unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the landlord or other tenants of the structure or [the Community] containing the dwelling unit, or the creation or maintenance of a dangerous or unsanitary condition in violation of applicable local, state, and federal law, and may be further defined in the regulations adopted by the Guidelines of the Town of Fairfax Town Manager or his/her designee.

10. **Notices Required by the Town of Fairfax.**

- (a) The living portion of the unit shall be incidental to the workspace and the live/work [work/live] space shall be maintained and classified as a business use.
- (b) The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.
- (c) No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.

(d) **As the occupant of a live/work space, by selecting this type of occupancy, I [Leasee(s)] accept the conditions found in the area including but not limited to, commercial noise, pollution, fumes, dirt, traffic and odors to the extent that they are permitted by law in the CL Zone district.**

I have read and understand the four Notices Required by the Town of Fairfax

Lessee initials _____

EZAZI AND ASSOCIATES, LLC:

_____	UNIT # _____
AUTHORIZED AGENT	DATE
_____	DATE
LESSEE	DATE
_____	DATE
LESSEE	DATE
_____	DATE
LESSEE	DATE

EXHIBITS TO ADDENDUM:

- 1. Joint Live and Work Ground Floor and Unit Floor plan, UNIT # _____
- 2. Conditional Use Permit # _____ – Planning Department Town of Fairfax.

Housing Listed on Craiglist for Fairfax

NOVEMBER 10, 2019

<u>Type</u>	<u>All Housing</u>	<u>Non- Share</u>	<u>2 BR or less</u>	<u>1 BR/studio</u>	<u>affordability</u>
count	30	21	16	10	
median	\$1,937.50	\$2,400.00	\$2,042.50	\$1,875.00	low 70 pct
max	\$4,500.00	\$4,500.00	\$2,950.00	\$2,400.00	moderate
min	\$875.00	\$1,250.00	\$1,250.00	\$1,250.00	very low
avg	\$2,099.33	\$2,479.29	\$2,127.50	\$1,823.50	low 70 pct

NOVEMBER 25, 2019

<u>Type</u>	<u>All Housing</u>	<u>Non- Share</u>	<u>2 BR or less</u>	<u>1 BR/studio</u>	<u>affordability</u>
count	24	15	11	6	3 new listings
median	\$2,061.00	\$2,500.00	\$2,495.00	\$2,061.00	moderate
max	\$3,800.00	\$3,800.00	\$3,500.00	\$2,999.00	over
min	\$700.00	\$1,600.00	\$1,600.00	\$1,600.00	low 60 pct
avg	\$2,080.63	\$2,674.07	\$2,416.91	\$2,186.00	moderate

DECEMBER 5, 2019

<u>Type</u>	<u>All Housing</u>	<u>Non- Share</u>	<u>2 BR or less</u>	<u>1 BR/studio</u>	<u>affordability</u>
count	28	18	14	9	7 new listings
median	\$1,937.50	\$2,447.50	\$2,223.50	\$1,950.00	moderate
max	\$3,800.00	\$3,800.00	\$3,450.00	\$2,495.00	moderate
min	\$900.00	\$1,800.00	\$1,800.00	\$1,800.00	low 70 pct
avg	\$2,053.07	\$2,546.50	\$2,304.43	\$2,059.67	moderate

DECEMBER 12, 2019

<u>Type</u>	<u>All Housing</u>	<u>Non- Share</u>	<u>2 BR or less</u>	<u>1 BR/studio</u>	<u>affordability</u>
count	20	14	10	5	1 new listing
median	\$2,099.50	\$2,410.00	\$2,211.00	\$1,800.00	low 70 pct
max	\$4,000.00	\$4,000.00	\$3,500.00	\$2,222.00	moderate
min	\$990.00	\$1,600.00	\$1,600.00	\$1,600.00	low 65 pct
avg	\$2,239.00	\$2,642.29	\$2,256.70	\$1,849.40	low 70 pct

DECEMBER 19, 2019

<u>Type</u>	<u>All Housing</u>	<u>Non- Share</u>	<u>2 BR or less</u>	<u>1 BR/studio</u>	<u>affordability</u>

School Street Plaza for Comparison

count	13
median	\$1,850.00
max	\$2,600.00
min	\$1,150.00
avg	\$1,858.85