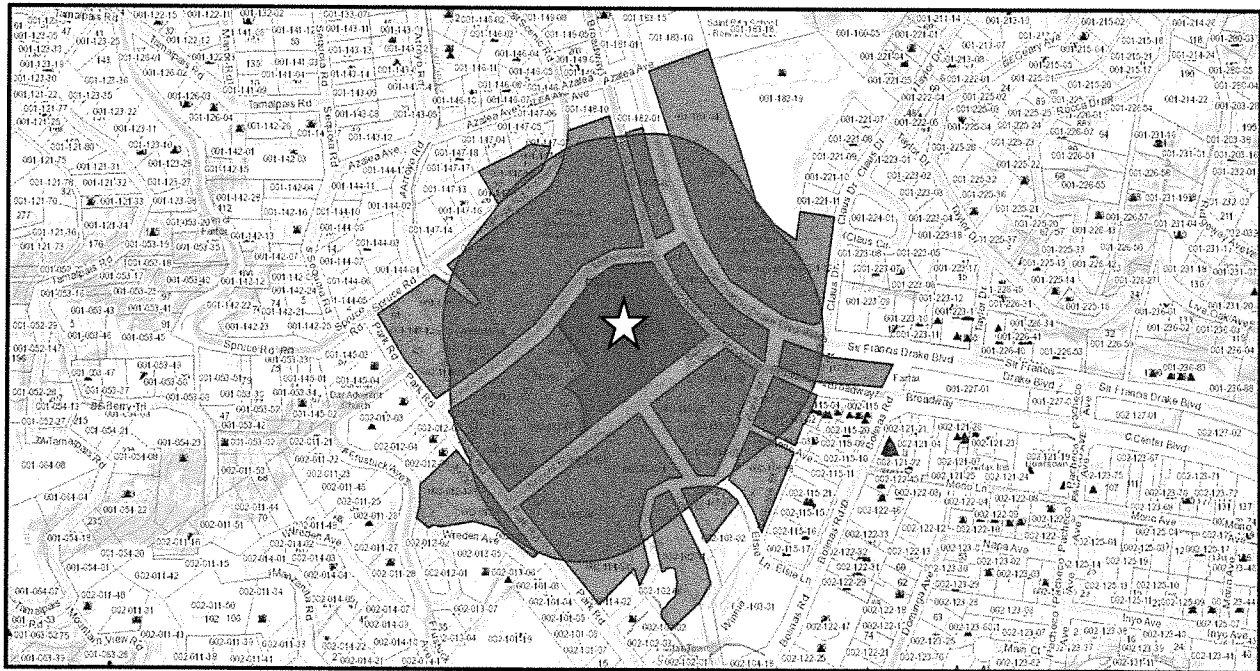


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** April 16, 2020  
**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 12 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 STREET PLAZA

**BLDG. 6: SUITE 110; BLDG. 8: SUITES 8A1, 8B1, 8B2 & 8D2;  
BLDG. 10: SUITES 10C, 10D & 10E; BLDG. 12: SUITES 12B-1,  
12C-2, 12D-1 & 12D-2**

## BACKGROUND

This item was continued from the October 17, 2019, December 19<sup>th</sup>, 2019, February 20, 2020 and March 19, 2020 Planning Commission meetings. At the December meeting, the Planning Commission raised a number of issues and questions, to which the applicant was initially unwilling to agree to a continuance and waiver of the Permit Streamlining Act (PSA) processing time limits, to allow additional time to address those issues and questions before taking action on the project. The Planning Commission then advised the applicant of their preliminary intent to deny the project, said action which requires a resolution denying the project. Prior to the January 16, 2020 Commission meeting, the applicant agreed in writing to waive PSA time limits and to provide the additional information that the Commission previously requested. The Commission continued the project to the February 20, 2020 meeting, and then to the March 29, 2020 meeting, to allow the applicant time to respond to their requests.

For further information on the project review the October, December and January staff reports which can be found on-line at the Town website at [www.townoffairfax.org](http://www.townoffairfax.org).

The project plans have been modified from what was presented to the Commission at their December 19, 2019 meeting. The applicant is now proposing to legalize 12 live/work spaces on the site, reducing the proposed number for conversion to live/work spaces and bringing the proposed 12 into compliance with current building and fire code requirements. The proposed project includes an approximately 700 square-foot expansion to the east side of building number 8, and remodeling the building to expand and convert the existing 5 commercial suites (8A, 8A1, 8B2, 8C and 8D) into 3 commercial suites (suites 8A, 8C and 8D) and 4 live/work suites (8A1, 8B1, 8B2 and 8D2).

## DISCUSSION

Additional information requested by the Commission at the October, December and January meetings included the following (*Staff's and the applicant's responses and new information is in italicized font*):

- The rent range that will be charged for each live/work space, and the approximate number of people occupying and potentially occupying each space.

*See attachment B, 9<sup>th</sup> column of the table for the rent to be charged for each live/work unit, and column 11 for the maximum number of persons the owner plans to have occupy each live/work unit. Column 13 indicates the maximum number of persons that would be allowed to live in each unit per the International Property Management Code (IPMC –referenced attached).*

*The owner proposes having no more than 23 persons occupying the live/work spaces. The maximum number allowed per the IPMC is 27 persons.*

- 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.).

*The applicant has provided more detailed plans, with the final submittal set dated March 5, 2020*

*The Building Official has verified that the 12 proposed units comply with the Uniform Building and Fire Codes and the International Property Management Code.*

*Each suite has individual locking exterior doors and windows for security.*

- 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. The applicant should address to extent to which he may be willing to provide at least some affordable housing, particularly low-income.

*See attachment B, column 9 for the approximate rental amount the owner proposes charging for each live/work unit.*

*Subsequent to the December Commission hearing, the Town has determined that because there is no inclusionary (affordable) housing ordinance in the Town Code, the Commission cannot require a housing applicant to provide affordable units. The applicant can voluntarily agree to provide low income units.*

*The Commission should note that based on the County of Marin Rental Affordability Table for 2019 (Attachment D) and the +/- rents proposed by the applicant (Attachment B, column 9 – Use and Rent Guideline Table) four of the live/work spaces would be moderately affordable, five would be affordable for low-income tenants and one would be affordable for a very-low-income tenant.*

- One Commissioner raised a concern about 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), and requested that the applicant address the living/work area ratio.

*The applicants have revised the project plans to eliminate four of the smaller live/work units with the result being that the proposed 12 live/work units all have a ratio of residential area to work area of 50% or almost 50% (Attachment B,*

column 8). Eight of the units have 50/50 floor plans and four have floor plans that do not fall below a ratio of 47% work area to 53% residential area.

- Other agencies live/work ordinances, for potential applicability in a Fairfax code.

*Staff provided copies of live/work regulations for the following cities by e-mail to the Commission on 11/27/19: Berkeley, Calistoga, Cotati, El Cerrito, Larkspur, Mill Valley, Novato, Petaluma, San Rafael and South San Francisco. These regulations can be viewed within the various communities' ordinances on the internet.*

*Some cities have adopted specific regulations for live/work developments and allow them if they comply in certain zones, while others require only a conditional use permit (CUP) for live/work developments. Still others have live/work ordinances that set forth certain standards that have to be met and also require the approval of a conditional use permit for such proposals.*

*Staff used these various ordinances to compile a detailed list of conditions of approval which have been used to ensure the live/work spaces function symbiotically with the other permitted uses on this Limited Commercial (CL)-zoned property.*

*If the conditions are not complied with, or some unforeseen complication arises, the Town can schedule the use permit for a public hearing and review for revocation/or modification of the Conditional Use Permit.*

- A review of the proposed live/work spaces for compliance with the California Building Code/California Residential Code requirements for live/work spaces.

*The Fairfax Building Official has reviewed the preliminary floor plans for all the units and has determined that they comply or can be brought into compliance with Building, Fire and Property Management Codes.*

*A concern was raised by one of the Commissioners about the proximity of the bathrooms to the kitchen areas in the units. The floor plans for eleven of the units have been modified so that the bathrooms no longer open directly into the kitchen areas. The Building Official has assured the Planning Department that the one unit, suite 8D2, that still has the bathroom opening directly into the kitchen area can be made code compliant by installing a weather tight door between the two areas.*

- Show the total number of suites existing in the buildings, the proposed number of units and a clear indication of which units are currently rented and used, which are under construction, and which are vacant.

*The four School Street Plaza structures are currently divided into 35 suites. The*

*current proposal is to remodel all the buildings, and expand building 8, to provide 12 live/work suites. Of the 12 proposed live/work suites, 4 are currently vacant and 8 are occupied. See Attachment C for a complete list of all suites, tenant business names, description of services, type of services/products provided and whether the business is open for walk-in traffic.*

- How does the residential density resulting for the addition of 12 residential units compare with the density of the surrounding residential development?

*The project site is 1.9 acres in size and approval of the proposed 12 live/work units would result in a density of 6.3 units per acre. The adjacent neighborhood on Park Road and Merwin Avenue is 2 acres in size and is developed with 29 units resulting in a density of 14.5 units per acre (Attachment E - area maps).*

*The 2015 Fairfax Housing Element envisioned 9 residential units on the site with the possibility of .8 acres of the site along Broadway being rezoned Central Commercial which allows residential on the second floor.*

*Based on the above information staff believes the proposed 12 live/work units meet the intent of the Housing Element and do not result in a housing density that is out of character with the immediate neighborhood.*

- Clarification that they would like a preliminary lead/asbestos inspection of all the units proposed for live-work and the Planning Director indicated that the report should include protocol for dealing with these items if they are encountered during the construction.

*The applicants hired NorBay Consulting to perform an asbestos and lead assessment of the property. The assessment was performed by Mr. Bob Gerhold, Cal-OSHA Certified Asbestos Consultant and Lead Inspector/Assessor and Mr. Mike Gerhold, EPA Building Inspector and California Department of Health Lead Sampling Technician on January 23, 2020 (Attachment F).*

*The assessment determined that there is no asbestos in the samples taken throughout the building.*

*They did find lead in various locations throughout the property. The report advises that disturbance of the identified areas of the structure are subject to Cal-OSHA Lead in Construction standard requirements. Pages 5 and 6 of the assessment report indicate, "Current EPA and HUD guidelines recommend that surfaces containing lead-based paint in damaged condition to be considered lead-based paint hazards and should be addressed through abatement (permanent removal) or interim controls (temporary). Surfaces containing lead based paint in intact condition should be monitored, but are not considered to be lead based paint hazards. At the time of our inspection, the following components were found to contain damaged lead based paint/glazing and are considered a*

*lead-based paint hazard. None”.*

*The Building Official has indicated that if the remodeling of the units will require the disturbance of any of the lead paint, the owner will be required to hire a lead abatement contractor certified by the Environmental Protection Agency (EPA) to remove the paint in compliance with OSHA regulations. These requirements have been incorporated into the draft Conditions of Approval (see Attachment H - resolution).*

- Clarification of who owns the property.

*Ezazi and Associates, a California Limited Partnership made up of the owner Farshid Ezazi (Attachment G).*

- The Commission expressed an interest in knowing where the suggested conditions of approval contained in the draft Resolution recommending approval of the project originated.

*See Attachment H (resolution) which identifies from which jurisdiction a specific condition was borrowed. The applicant’s representative has also prepared a table identifying similar information in addition to other agency requirements for Live/Work developments throughout the Northbay, Marin and Sonoma Counties (see Attachment I).*

- One Commission suggested that it might be a good idea for the applicant to prepare a pamphlet for new tenants explaining what being a tenant in the live/work space will entail.

*Attachment J is a working draft of an addendum to the applicant’s lease agreements with live/work unit tenants. The conditions can also be modified to be provided to the tenants in a pamphlet form that they can keep for their records so they remember the conditions of tenancy. Staff is including as a draft condition of approval a requirement that conditions of approval 9, 12, 14, 15, 16, 17, 18, 19, 21, 25, 27, 31 and 32 be incorporated into the lease addendum and any future pamphlet created for tenants.*

## **Suites 12B-1 and 12C-1**

Staff met with the applicant and his representative on 3/10/20 to make sure there were no outstanding issues with respect to the project and the plans. When staff expressed concern that suite 12C-1 was retaining the kitchen area and the full bathroom, the applicant proposed that a condition be included in the resolution that the shower and the expanded counter area be removed when the current tenant gives up the space. Staff is agreeable to this condition, although monitoring a move-out will be challenging. Anecdotally, several of the classrooms probably originally did have a sink and counter.

Staff could also not find any evidence that the section of counter and sink along the wall were not originally in a classroom. However, it appears unlikely that the expanded counter and shower would have originally been found in a classroom.

The applicant has agreed to eliminate in the lease for suites 12C-1 and 12B-2 their use as live/work, since they are no longer proposed for that use.

## **Zoning Ordinance**

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 proper 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 requires regulation of location, extent, or operation because of some unique characteristic.

Staff determined that the proposed live-work spaces which combine permitted physical therapy and other 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 has discussed them in this staff report.

## **Parking and Traffic**

The proposed 700 square-foot expansion increases the required number of parking spaces for the commercial complex from 42 to 43. 62 onsite 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 approximately 6,300 square feet of commercial space to live/work (including the 700 square-foot expansion) and the remaining approximately 14,000 square-feet of limited commercial use area, the average daily traffic (ADT) generated by the School Street Plaza should actually decrease by approximately 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).

## **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, and a flat roofline. The modified building matches the architecture of the other old school buildings 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 weather. The addition has been designed to match the exterior of the existing building, both with minor changes in the numbers and sizes of the window, and relocation of the three rear doors accessing the spaces.

Commissioner comments included that a request that the applicants consider increasing the articulation of the building. However, staff and the applicants are of the opinion that the building is an old school building, the new wall is facing the ball field and is not visible to any residences, and this location may be redeveloped by the applicant at some point in the future, indicates that adding expense to further improve the structure is unnecessary at this time.

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. The applicants have included lighting details on the first page of the submittal plan set, showing all the existing fixtures on site. The lighting legend showing the existing fixture types and their symbols used in the existing plan is located in the upper left corner of the first plan page A0.

The applicants are proposing to change out the old light bulbs in the fixtures with LED bulbs and assess how well the existing lighting illuminates the site. They will then design a lighting plan that, according to the Building Official, will have to comply with the Property Maintenance Code and the Energy Code, section 402 as follows:

The walkways around the property must have lighting using LED or florescent bulbs with a lumens output equivalent to a 60 watt incandescent bulb. The lights



must be spaced no more than 30 feet apart, have an on-off switch, an astronomical timeclock or photocell and motion sensor, or photo cell and a time switch (to automatically turn the lights on when it is dark and turn them off again when it is light out) (Attachment L).

Staff has included as a condition of project approval that any future changes to the exterior lighting will have to comply with the following:

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 while also complying with the International Property Management and Energy Codes.

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/remodel of 12 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, which the proposed 12 live/work spaces would exceed without exceeding the existing density of the surrounding residential neighborhood, even without a (potential) future 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 and the conversion of 12 suites to live/work spaces and setting forth the findings and the conditions for the project approval.

## **ATTACHMENTS**

Attachment A - Resolution No. 2019-17

Attachment B –Area Use and Rent Guideline Table

Attachment C –Table of Tenants

Attachment D – Marin County Rent Affordability Table for 2019

Attachment E –Density Maps and page from Housing Element for School Street

Attachment F- Asbestos/Lead report

Attachment G- Ownership grant deed and Limited Partnership Certificate

Attachment H- Resolution # 2019-17 including jurisdictions where conditions originated

Attachment I – Table Comparing nearby Live/Work regulations

Attachment J- Draft Live/work lease addendum – in progress

Attachment K –IPMC regulations determining permitted occupancy numbers

Attachment L- Building Official comment on lighting requirements



RESOLUTION NO. 2019-17

**A Resolution of the Fairfax Planning Commission Approving Application # 19-14 for a Conditional Use Permit, Design Review Permit for 12 Live/Work Units and An Approximately 700 Square-foot Expansion of 8 School Street Plaza at School Street Plaza Buildings 6, 8, 10 and 12 School Street.**

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WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit for 12 live/work units and a Design Review Permit for a 700 square foot remodel/addition to building 8; and

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WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019, December 19, 2019, January 16, 2020, and April 16, 2020 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

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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 Planning Commission has determined the School Street Plaza live/work proposal is a "homegrown" project that was created from the ground up, and is particularly suited to the site, its existing full time residents, and to the needs of the community; and

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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. The PDD zoning change potential exists but is unnecessary at this time to accommodate the proposed project.

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

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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. The CL zoning allows for a mixed-use residential-service commercial project, making it unnecessary to rezone the property at this time.

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.

Many of the live/work spaces are already occupied and operating as live/work commercial spaces with live-in tenants except two that will be constructed in Building 8), one that will be converted from existing commercial space. 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.

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**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. The property lighting must be brought into compliance with the International Property management Code and Energy Codes lighting all walkways with fixtures spaced no less than 30 feet apart with LED or florescent bulbs with a lumens output equivalent to a 60 watt incandescent bulb. The lights must have an on/off switch, plus an astronomical timeclock or photocell and motion sensor, or photocell and time switch. 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. 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

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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 businesses outside the building.

10. Failure to comply with the conditions for 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).

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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.

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13. Each live/work tenant shall obtain an annual business license each year prior to the January 31<sup>st</sup> deadline and provide a copy of the business license to the Planning Department.

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14. 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.

15. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken.

16. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations.

17. 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".

18. 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.

19. The living space may not be rented or sub-let separately from the work space.

20. 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. The Planning Commission may grant exceptions to this limitation if a tenant applies for an exception to these sign regulations and obtains a sign permit exception from the Planning Commission.

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21. An adequate refuse storage area shall be provided for all the commercial and live/work tenant spaces in the School Street Plaza complex.

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22. 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.).

23. 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.

24. 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 on page A2, dated 3/5/2019 and labeled "School House Plaza: Live Work Spaces".

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25. 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.

26. No more than one employee excluding residents of the dwelling unit shall work or report to work on the premises.

27. 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.

28. 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 occupancy may exceed the maximum number of persons allowed in the International Property Management Code (IPMC) and bedrooms exceeding 100 square feet be limited to 3 adults or 2 adults and one child. This occupancy limit would allow the live work spaces to provide for the maximum residency, while not significantly increasing the amount of traffic accessing the site beyond what exists now

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30. 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.

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33. 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.

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34. The tenants of the above listed units shall complete and file with the Marin Housing Authority/Town of Fairfax annual income certification forms. ¶

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

35. Conditions 9, 12, 14 through 19, 21, 25, 27, 31 and 32 shall be incorporated into the property lease agreement addendum for the live/work suites.

36. The shower and the expanded "kitchen" counter top in suite 12C-1 shall be removed when the current tenant moves out of the space and prior to the use of the space by another tenant.

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37. The owner shall provide access and egress to allow all tenants to use the stairway at the northwest corner of the site that is currently locked.

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**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 and the Design Review 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 April 16, 2020, by the following vote:

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AYES:

NOES:

ABSTAIN:

\_\_\_\_\_ Chair Green

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Attest:

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Ben Berto, Director of Planning and Building Services

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### School Street Plaza Live Work - Area Use and 2019 Rent Guideline

Index	Address	Occupied?	Type	Total SqFt	Living SqFt	Work SqFt	Work Pct	Rent	Sleeping Area	Persons	Affordable class	Max per IPMA	Note
1	110		OFF	701	351	351	50%	\$2,600.00 ±	160 SF	2	moderate	3	
2	8A1		OFF	444	222	222	50%	\$2,000.00 ±	102 SF	2	moderate	2	reserve for tenant 270
3	8B1	Y	OFF	474	237	237	50%	\$2,000.00 ±	102 SF	2	moderate	2	tenant to 8D2
4	8B2	Y	OFF	445	223	222	50%	\$2,000.00 ±	102 SF	2	moderate	2	now rented as comm'l
5	8D2		OFF	454	227	227	50%	\$1,318.00 ±	70 SF	1	very low	1	now rented as comm'l
6	10C	Y	2 BR	918	476	442	48%	\$3,700.00 ±	206 SF	3		4	3 room sleep factor
7	10D	Y	1 BR	491	259	232	47%	\$2,000.00 ±	132 SF	2	moderate	3	2 room sleep factor
8	10E	Y	1 BR	497	251	246	49%	\$1,850.00 ±	121 SF	2	low 70%	3	2 room sleep factor
9	12B1	Y	OFF	560	280	280	50%	\$2,200.00 ±	102 SF	2	moderate	2	<b>construction</b>
10	12C2	Y	OFF	410	214	196	48%	\$1,520.00 ±	70 SF	1	low 65%	1	
11	12D1	Y	OFF	485	243	242	50%	\$1,590.00 ±	104 SF	2	low 60%	2	
12	12D2		OFF	431	215	216	50%	\$1,728.00 ±	134 SF	2	low 65%	2	<b>construction</b>

OFF is Open Floor Plan  
 Total 6310 3198 3113

23

27

rev 03/12/20

# School Street Plaza Table of Tenants as of February 1, 2020

Reference	Building	Suite	Business Name	Description of Services	Products sold on site	Open to public?	Hours	Type of business/use	Requested Planning Action
L-W 1	6	100	unoccupied					Professional office	This CUP application L-W 1
		110	unoccupied						
		120	Barbara Swift Brauer	Creative writing	None	Private	-	Professional office	
		130	Dan Clark, ESQ.	Tax Attorney	None	Private	-	Professional office	
		140	Dandelion Vitali Salon	Cosmetologist	None	No walk in	by appt	Professional salon	
		150	vacant					commercial	
		160	vacant					Professional office	
		170	Edutracks	Sustainable Financial Advisor	None	Private	-	Professional office	
		180	vacant					commercial	
	6	200	Main Alliance	Medical cannabis dispensary	Cannabis	Yes	9 AM-9 PM	CUP (1996)	
		210	Main Alliance						
		220	Main Alliance						
		230	vacant					Professional office	
		240	Inner Nature Sanctuary	Physical Therapy	None	No walk in	by appt	commercial	
		250	David Mizrahi	Financial Advisory	None	Private	-	Clinics... therapy	
		260	Vida Nature	Nature School Administrative Office	None	Private	-	Professional office	
		270	A & G Studios	Music Studio	None	Private	by appt	Music... studios	Tenant to be relocated Bldg 8
		280	Happy Boats	Boating Designer	None	Private	-	Professional office	Tenant to be relocated Bldg 8
	8	A	Morgan Hall Architect	Architect	None	No walk in	by appt	Professional office	
		A1	unoccupied					Music... studios	This CUP application L-W 2
L-W 2		B1	Lotus Hand Healing Arts	Nutritionist	None	Private	by appt	Clinics... therapy	This CUP application L-W 3
L-W 3		B2	Testrone, Inc.	Music rehearsal studio	None	Private	-	Music... studios	This CUP application L-W 4
L-W 4		C	Tom Finch Studios	Music Studio	None	No walk in	by appt	Music... studios	This CUP application L-W 4
		D	Soundwire Studios	Music Studio	None	No walk in	by appt	Music... studios	Recording studio to be separated
L-W 5		D2	new unit					new unit	This CUP application L-W 5
	10	A	Frogs	Physical Water Therapy	None	Yes	11A-midnight	CUP (1977)	
		B							
L-W 6		C	Metacine	Music Studio	None	No walk in	-	Music... studios	This CUP application L-W 6
L-W 7		D	Laura Bedford Studios	Music Studio	None	Private	by appt	Music... studios	This CUP application L-W 7
L-W 8		E	Guertilla Marketing	Sustainable Market Advisor	None	Private	-	Office, Financial	This CUP application L-W 8
	12	A	Resident Manager	NA				CUP #05-43	
L-W 9		B1	Studio Elsewhere	Art Studio	None	Private	-	...art... studios	This CUP application L-W 9
		B2	Vaska by Annica	Fashion Art Design Studio	None	Private	-	...art... studios	withdrawn
		C1	Earth Spa	Physical Therapy	None	No walk in	by appt	Clinics... therapy	withdrawn
L-W 10		C2	Beautyweaving	Art Studio	None	No walk in	by appt	...art... studios	This CUP application L-W 10
L-W 11		D1	Earth Goddess	Music/Dance Studio	None	No walk in	by appt	Music... studios	This CUP application L-W 11
L-W 12		D2	unoccupied					Clinics... therapy	This CUP application L-W 12
		E	Sol Studios	Yoga/Dance Studio	None	No walk in	9AM-7PM	...dance... studios	

CUP application code sections:  
 17.092.050(A) Motels and Hotels, residential uses  
 17.092.060(3) Offices for principal uses

revision 03/12/2020b



**MARIN COUNTY  
RENTAL AFFORDABILITY FOR 2019**

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

HH Size	Median Income 100%	Very Low Income 50%	Low Income 60.00%	Low Income 65.00%	Low Income 70.00%	Low Income 80.00%	Moderate Income 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	<i>studio</i>	47,900	3,992	<b>1,198</b>	43	<b>\$1,155</b>
2	<b>1Br</b>	54,750	4,563	<b>1,369</b>	51	<b>\$1,318</b>
3	<b>2Br</b>	61,550	5,129	<b>1,539</b>	71	<b>\$1,468</b>
4	<b>3Br</b>	68,400	5,700	<b>1,710</b>	93	<b>\$1,617</b>

**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	<i>studio</i>	57,450	4,788	<b>1,436</b>	43	<b>\$1,393</b>
2	<b>1Br</b>	65,650	5,471	<b>1,641</b>	51	<b>\$1,590</b>
3	<b>2Br</b>	73,850	6,154	<b>1,846</b>	71	<b>\$1,775</b>
4	<b>3Br</b>	82,000	6,833	<b>2,050</b>	93	<b>\$1,957</b>

**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	<i>studio</i>	62,500	5,208	<b>1,563</b>	43	<b>\$1,520</b>
2	<b>1Br</b>	71,150	5,929	<b>1,779</b>	51	<b>\$1,728</b>
3	<b>2Br</b>	80,000	6,667	<b>2,000</b>	71	<b>\$1,929</b>
4	<b>3Br</b>	88,900	7,408	<b>2,223</b>	93	<b>\$2,130</b>

**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	<i>studio</i>	67,025	5,585	<b>1,676</b>	43	<b>\$1,633</b>
2	<b>1Br</b>	76,615	6,385	<b>1,915</b>	51	<b>\$1,864</b>
3	<b>2Br</b>	86,170	7,181	<b>2,154</b>	71	<b>\$2,083</b>
4	<b>3Br</b>	95,760	7,980	<b>2,394</b>	93	<b>\$2,301</b>

**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.

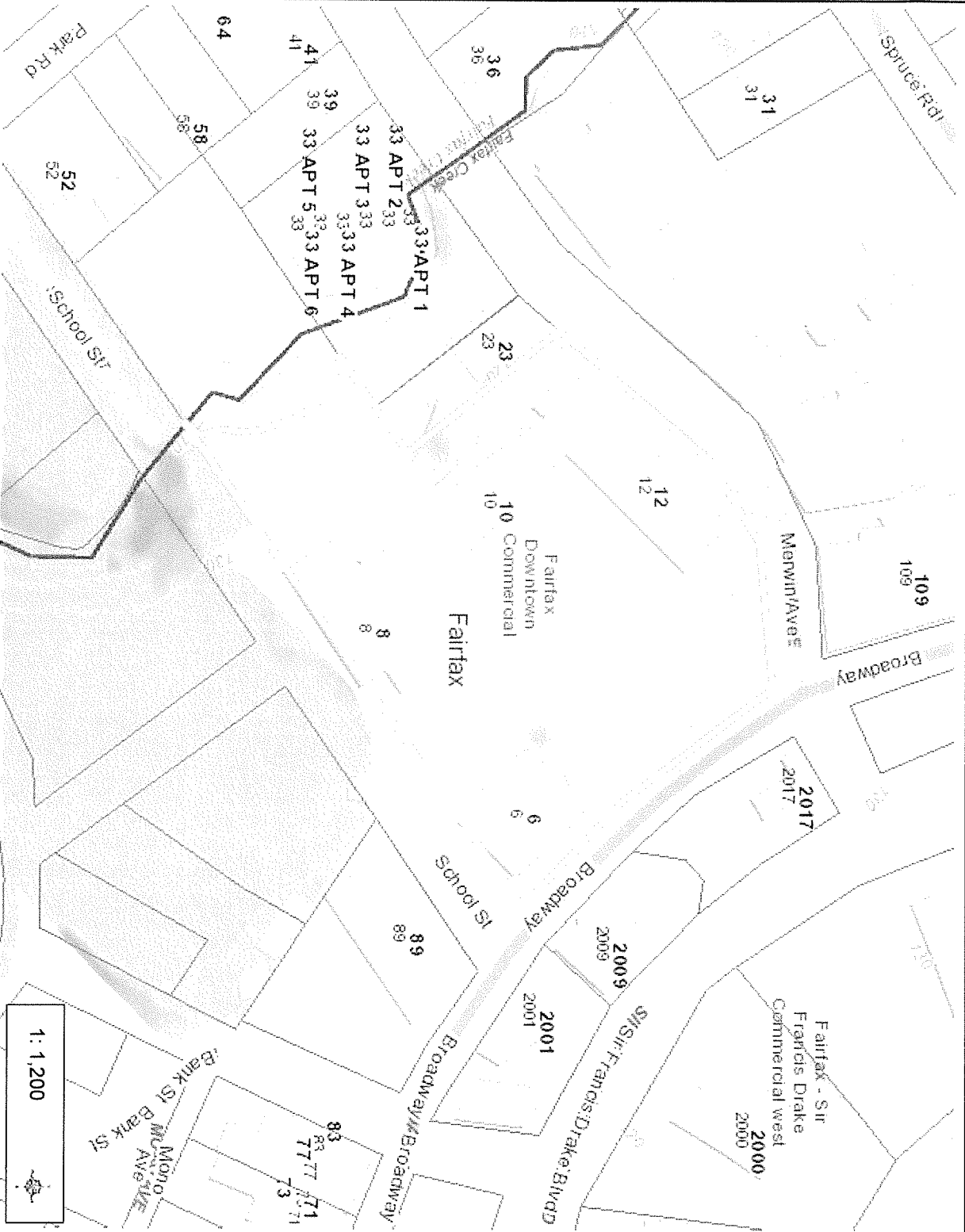
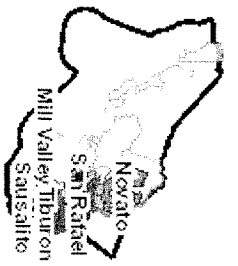
HH Size	Unit size	Annual Income	Monthly Income	30% of income	Monthly Utilities	RENT / MO
1	<i>studio</i>	95,750	7,979	<b>2,394</b>	43	<b>\$2,351</b>
2	<b>1Br</b>	109,450	9,121	<b>2,736</b>	51	<b>\$2,685</b>
3	<b>2Br</b>	123,100	10,258	<b>3,078</b>	71	<b>\$3,007</b>
4	<b>3Br</b>	136,800	11,400	<b>3,420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

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

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
























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 © Latitude Geographics Group Ltd.

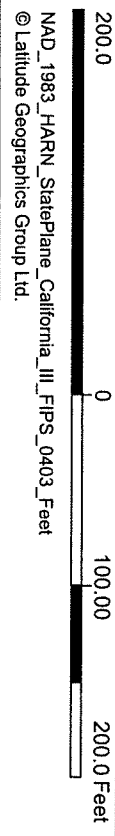
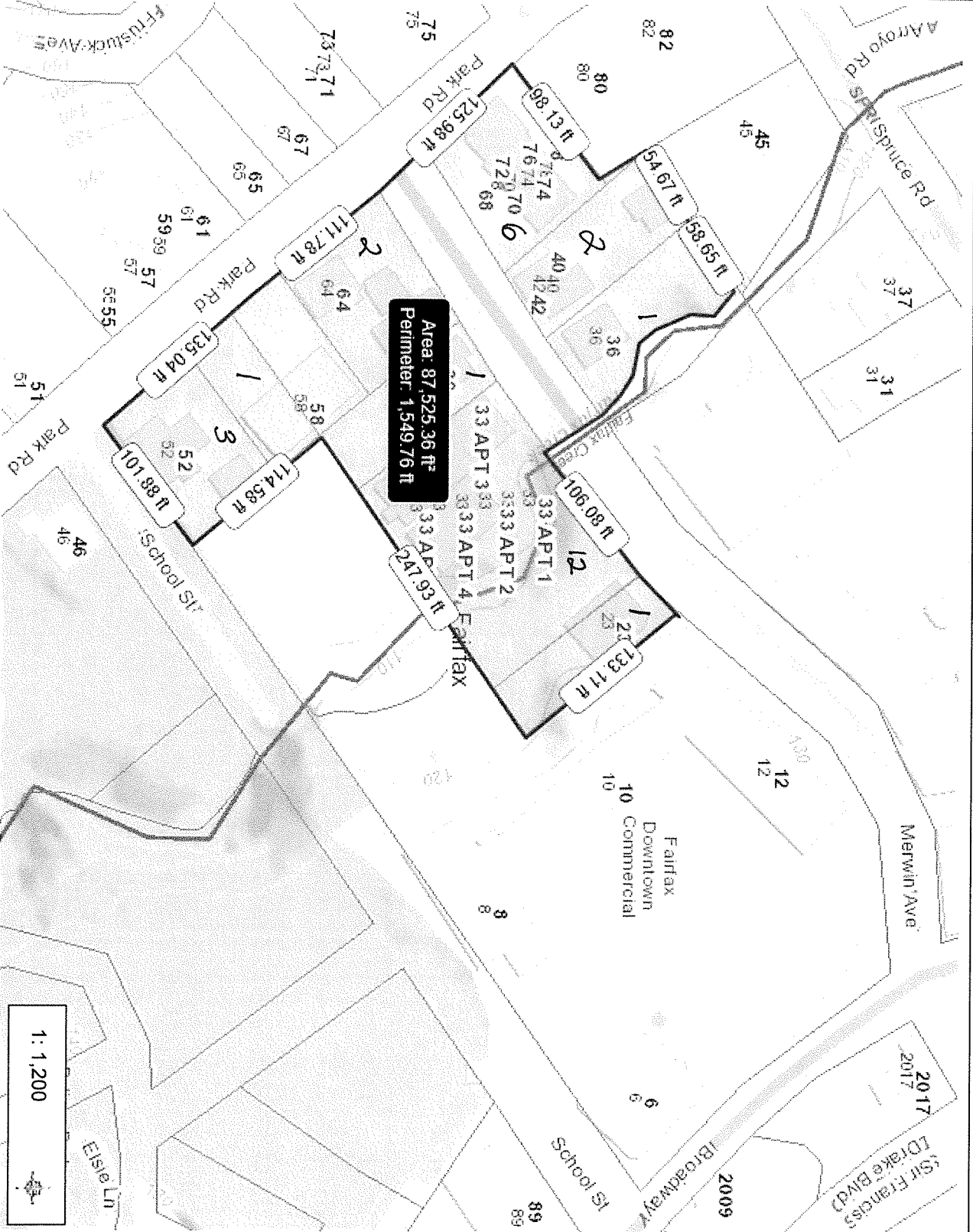
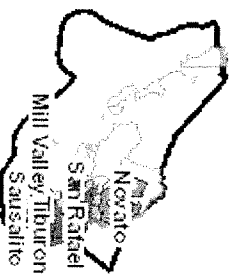
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**Legend**

-  Condominium Common Area
-  City
-  Community
-  Marin County Legal Boundary
-  Other Bay Area County
-  Ocean and Bay
-  MMWD Easement
-  Address
-  Parcel Secured
-  Stream - Perennial (NHID)
-  Area (NHID)
-  Canal/Ditch
-  Dam/Weir
-  Foreshore
-  Sea/Ocean
-  Spillway
-  Stream/River

**Notes**

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
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Notes

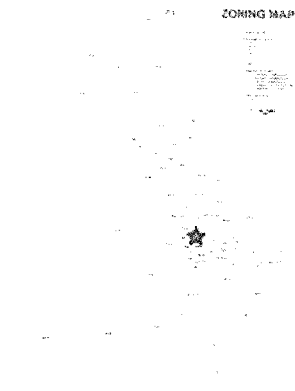
**Legend**

- Condominium Common Area
- City
- Community
- Marin County Legal Boundary
- Other Bay Area County
- Ocean and Bay
- MMWD Easement
- Address
- Parcel Secured
- Stream - Perennial (NHD)
- Area (NHD)
- Canalditch
- DamWeir
- Foreshoare
- SeaOcean
- Spillway
- StreamRiver

**== # UWITS**  
**TOTAL = 29 UWITS**

*Section Three: Housing Opportunity Sites*

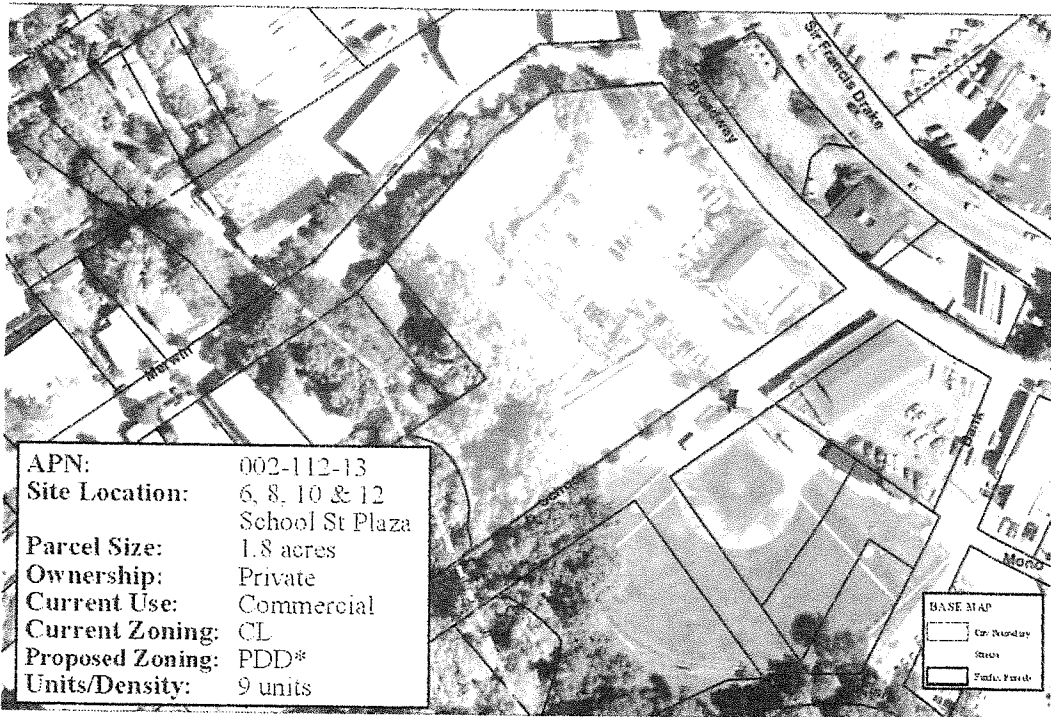
**Site #4: School Street Plaza**



Locator Map



Site Photo



**Site Description:**

The former school site is being used by a variety of commercial businesses. The site includes a paved parking area. The property owner is interested in redeveloping the site, including creating some affordable units. The site is adjacent to the Town's central park area.

\*The Town is also considering splitting the site into PDD zoning on the back one acre where the 9 units could be accommodated and, approximately .8 acres of CC zoning fronting Broadway.



TOWN OF FAIRFAX

FEB 04 2020

RECEIVED

*NorBay Consulting*

**LOGICAL**

**ENVIRONMENTAL**

**SOLUTIONS**

2400 Las Gallinas Avenue, Suite 110  
San Rafael, California 94903

Phone: (415) 507-9786  
Fax: (415) 507-9760

February 3, 2020

Mr. Rick Hamer  
Ezazi and Associates  
1311 Lovelock Avenue  
Alamo, CA 94507

**SUBJECT: LIMITED ASBESTOS & LEAD ASSESSMENT  
SCHOOL STREET PLAZA  
FAIRFAX, CALIFORNIA**

Dear Mr. Hamer:

NorBay Consulting is pleased to provide the analytical results from the limited asbestos and lead assessment conducted at the School Street Plaza located at 6-12 School Street in Fairfax, California. The inspection was limited to materials and areas scheduled to be renovated as per the property owner.

The assessment included the visual observation of various suspect asbestos containing materials, the collection of these materials to determine asbestos content, if any, laboratory analysis, the collection of lead in paint readings utilizing a RMD direct reading instrument and generation of a final report.

NorBay Consulting appreciates the opportunity to provide you with these services. If you have any questions regarding this report or if you require additional information please do not hesitate to contact me at (415) 507-9786.

Respectfully,  
NORBAY CONSULTING

*Bob Gerhold*

Bob Gerhold  
Certified Asbestos Consultant # 92-0157  
CDPH Lead Inspector/Assessor I2108

Limited Asbestos & Lead Assessment  
School Street Plaza  
Fairfax, California

## EXECUTIVE SUMMARY

NorBay Consulting performed a limited asbestos and lead assessment at the School Street Plaza located at 6-12 School Street in Fairfax, California. The inspection was limited to materials and areas scheduled to be renovated as per the property owner. Mr. Bob Gerhold, Cal-OSHA Certified Asbestos Consultant #92-0157 and CDPH Lead Inspector/Assessor #2108 and Mr. Mike Gerhold, EPA Building Inspector #44537 and CDPH Lead Sampling Technician #31696 performed the inspection on January 23, 2020.

**This Executive Summary is provided solely for the purpose of overview. Any party who relies on this report must read the entire report. The Executive Summary may have omitted important details, anyone of which could be crucial to the proper understanding and risk assessment of the subject matter.**

A total of six (6) samples of suspect asbestos containing building materials were collected during the inspection. Upon analysis by Polarized Light Microscopy (PLM) the following material(s) were found to contain varying percentages of asbestiform minerals or are materials known to contain asbestos.

- ◆ None.

A total of forty-two (42) readings were collected of interior/exterior painted/coated surfaces during the inspection. In addition, six (6) calibration readings were also collected. For this report lead based paint includes readings  $\geq 1.0$  mg/cm<sup>2</sup>, lead-containing paint includes readings  $\geq 0.1$  to  $\leq 1.0$  mg/cm<sup>2</sup> and no lead detected includes readings of 0.0 mg/cm<sup>2</sup>. It is extremely important to understand that XRF readings, which have a value of 0.0 mg/cm<sup>2</sup>, do not necessarily mean there is "no lead present" but rather the level is below what the instrument can read.

Lead based paint/glazing was located on the following components:

- ◆ Green metal window and window frame of room 12D2;
- ◆ Gray metal window frame of room 12D2;
- ◆ White metal structural post of room 12D2;
- ◆ Exterior blue metal window and window frame of room 12D2;
- ◆ Exterior white wood overhang of room 12D2;
- ◆ Exterior blue wood door frame of room 12D2;
- ◆ Beige plaster wall of the building 10 bathroom;
- ◆ Exterior blue metal window of building 10;
- ◆ Exterior blue wooden window frame and windowsill of building 10;
- ◆ Exterior green wooden door frame of building 10;
- ◆ Exterior gray stucco wall of building 8;
- ◆ Exterior beige stucco wall of room 8B1.

In addition, certain interior and exterior components were found to be coated with detectable levels of lead. Disturbance of these components would be subject to Cal-OSHA Lead in Construction standards.

A more detailed presentation of procedures and findings is presented in the body of this report. Also included is a discussion of recommendations and regulatory considerations.

Limited Asbestos & Lead Assessment  
School Street Plaza  
Fairfax, California

## ASBESTOS SURVEY PROCEDURES

Homogeneous areas of materials, which were suspected of containing asbestos were identified. A homogeneous area, for bulk sampling purposes, is one that seems by texture, color and wear to be uniform and applied during the same general time period. After the homogeneous areas had been identified, representative bulk sample(s) are collected for laboratory analysis. Because asbestos-containing building materials have compositional variability, it is possible to obtain different laboratory results for samples from the same homogeneous area. Therefore, a homogeneous area with at least one positive sample for will result in the entire homogeneous area being designated as an asbestos containing material.

The sampling strategy was partially based on guidelines established by the Environmental Protection Agency (EPA) for school buildings (40 CFR Part 763, AHERA) which require that samples be collected from each homogeneous area of suspected ACM. Upon completion of the inspection and bulk sampling, the samples were delivered under chain of custody protocol to SGS Forensic Laboratories of Hayward, California for analysis by Polarized Light Microscopy (PLM).

## SAMPLE ANALYSIS

Bulk samples were examined by Polarized Light Microscopy (PLM) in accordance with EPA Test Method 600/R-93/116, "Method for the Determination of Asbestos in Bulk Building Materials". The percentage of asbestos is determined by visual estimation. Laboratory results are reported based on the percentage of asbestiform minerals identified within each sample layer. The lower limit of reliable detection by PLM is 1% by volume. When asbestos or other minerals are observed in concentrations believed to be less than the reliable detection limit (less than 1%) the results are usually indicated as TRACE.

Upon analysis the analytical results are compared to government agency standards. Currently, both the California Occupational Safety and Health Administration (Cal-OSHA) and the Environmental Protection Agency (EPA) define material with contains more than one percent asbestos to be an asbestos containing material (ACM). In addition, Cal-OSHA defines any manufactured construction material containing more than 0.1% by weight as asbestos containing construction materials (ACCM). Cal-OSHA also requires notification and registration of the contractor when disturbing materials with more than one-tenth of one percent and regulates worker protection whenever materials containing any detectable levels of asbestos are to be disturbed.

## RESULTS

Analytical results can be found in the table on the following page:

Sample ID	Material	Location	Results
EWP-1	Window caulking	Exterior, 12D-2	No Asbestos Detected
Stucco-1	Stucco	Exterior, 82-A	No Asbestos Detected
Stucco-2	Stucco	Exterior, 8B-1	No Asbestos Detected

Limited Asbestos & Lead Assessment  
 School Street Plaza  
 Fairfax, California

Sample ID	Material	Location	Results
DWTM-1	Drywall/taping mud	Interior, under window, 82-A	No Asbestos Detected
TDWTM-1&2	Textured drywall/taping mud	Interior, wall to be demolished	No Asbestos Detected

## REGULATORY CONSIDERATIONS

Current EPA National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations require that most ACM be removed prior to demolition or renovation activities. Other regulations apply to construction activities and notification requirements for projects involving ACM/ACCM. At both the federal and state levels, these include, but are not limited to Federal OSHA regulation 29 CFR 1910 and 1926, the California Health Code, California OSHA 8 CCR 1529 and Proposition 65 which requires the posting of notifications when a facility is known to contain toxic substances found on the governors list.

As previously mentioned in this report both the California Occupational Safety and Health Administration (Cal-OSHA) and the Environmental Protection Agency (EPA) define material with contains more than one percent asbestos to be an asbestos containing material (ACM). However, Cal-OSHA has an additional classification for manufactured materials found to contain asbestos in quantities between 0.1% to 1%. This classification is referred to as Asbestos Containing Construction Materials (ACCM).

**Analytical results indicated that none of the materials sampled contains asbestos, thus should not impact any renovation plans. However, if other materials are scheduled to be disturbed, which have not been previously sampled they must be considered as asbestos containing until such a time that they can be sampled and proven otherwise.**

## LEAD IN PAINT XRF SURVEY PROCEDURES

The sampling strategy employed by NorBay Consulting was performed as outlined in Title 17, California Code of Regulations, Division 1, Chapter 8 and in accordance with those survey procedures listed in the "Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing", June 1995 by the U.S. Department of Housing and Urban Development (HUD). Our investigation included the collection of readings on similar painted surfaces (not every component in every room as dictated by HUD guidelines.)

Prior to data collection, painted/coated surfaces were categorized into distinct area of homogeneity, substrate material, building material and/or distinct paint type. After the items have been identified, a representative reading of the painted/coated surface is collected. Because painted/coated have compositional variability due to one or more paint layers, it is possible to obtain different readings for samples from the same homogeneous area. Therefore, a homogeneous area with at least one XRF reading of 1.0 mg/cm<sup>2</sup> or greater will result in the entire homogeneous material, substrate and/or distinct paint type being designated as lead based paint. Each XRF reading along with the location, component, substrate, color and condition of the painted/coated surface are included in the XRF readings table located at the end of this report.



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Fairfax, California

## **SAMPLE ANALYSIS**

The XRF testing was performed in accordance with the aforementioned criteria, using an RMD-LPA-1 XRF Analyzer. Exposure times are internally determined by the instrument and are based on a number of factors including lead content, substrate and source strength. The instrument is calibrated to the manufacturer's specifications and was periodically verified against known lead standards produced by the National Institute of Standards and Testing. HUD defines action level as the hazard level or which a corrective response action will be required. Currently, the most widely used levels for determining lead-based paint (LBP) is 1.0 mg/cm<sup>2</sup> (as measured by an XRF) established by HUD and adopted by the U.S. Environmental Protection Agency. The action level is 5000 parts per million (pip) or 0.5% by weight when collected paint chip samples are analyzed using atomic absorption spectroscopy (AAS). HUD guidelines consider XRF findings of 1.0 mg/cm<sup>2</sup> or greater, as lead based paint, which may be a potential hazard. It is extremely important to understand that XRF readings, which have a value of 0.0 mg/cm<sup>2</sup>, do not necessarily mean there is no lead present but are below what the instrument can detect. Positive results can be used to indicate that detectable levels of lead are present but negative results cannot be interpreted as conclusively demonstrating the absence of low levels of lead.

## **RESULTS**

During our investigation a total of forty-two (42) XRF readings were collected of various interior/exterior components and fixtures. Of these readings, fifteen (15) contained lead-based paint/glazing. Components found to contain lead based paint included the following:

- ◆ Green metal window and window frame of room 12D2;
- ◆ Gray metal window frame of room 12D2;
- ◆ White metal structural post of room 12D2;
- ◆ Exterior blue metal window and window frame of room 12D2;
- ◆ Exterior white wood overhang of room 12D2;
- ◆ Exterior blue wood door frame of room 12D2;
- ◆ Beige plaster wall of the building 10 bathroom;
- ◆ Exterior blue metal window of building 10;
- ◆ Exterior blue wooden window frame and windowsill of building 10;
- ◆ Exterior green wooden door frame of building 10;
- ◆ Exterior gray stucco wall of building 8;
- ◆ Exterior beige stucco wall of room 8B1.

In addition, certain interior and exterior components were found to be coated with detectable levels of lead. Disturbance of these components would be subject to Cal-OSHA Lead in Construction standard requirements.

For a complete listing of readings see the attached XRF Readings sheet.

## **REGULATORY CONSIDERATION/RECOMMENDATIONS**

Current EPA and Hud guidelines recommend that surfaces containing lead based paint in damaged condition to be considered "lead-based paint hazards" and should be addressed through abatement (permanent removal) or interim controls (temporary). Surfaces containing lead based

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paints in intact condition should be monitored, but are not considered to be "lead based paint hazards".

At the time of our inspection, the following components were found to contain damaged lead based paints/glazing and are considered a "lead-based paint hazard".

- None.

### **Construction Work Standards**

At present, there are no state or federal laws dealing with mandatory abatement following the identification of lead containing or lead based paints prior to disturbance. However, in 1993 the Occupational Safety and Health Administration promulgated legislation (29 CFR 1926.62 and 8 CCR 1532.1) entitled "lead Exposure in the Construction Industry" which deals with worker exposure to lead.

It should be noted that aside from the HUD definition of lead-based paint (1.0 mg/cm<sup>2</sup>), OSHA regulates worker protection and work practices on building components containing any detectable amounts of lead. Therefore, components determined to contain less than 1.0 mg/cm<sup>2</sup> may still be subject to OSHA regulations, if these materials are to be disturbed. This standard essentially states that work, involving components containing any amount of lead must follow certain guidelines. These guidelines include but are not limited to training, personal protective equipment and specific work practices whenever workers disturb lead in any concentration because the disturbance may result in airborne exposures over action or permissible exposure limits. This legislation requires that any task that may potentially expose workers to any concentration of lead be monitored to determine workers eight-hour time weighted average (TWA) exposure to lead. Prior to conduction of activities that may generate a lead exposure, such workers must be properly fitted with respiratory protection and protective clothing until eight-hour TWA results reveal exposures within acceptable levels.

Any proposed renovation/demolition, which may involve the removal of building materials with lead based paint and/or lead containing painted surfaces, should include provisions to minimize the potential for airborne release of lead contaminated dust. It is recommended, as a minimum, that demolition of building materials which have lead-based and/or lead-containing paints be conducted with the materials kept in a wetted state and removed in sections, as feasible, to reduce the potential for airborne lead emissions.

The Federal EPA Renovation, Repair and Painting Rule 40 CFR 745, which became effective April 22, 2010 covers all non-abatement renovation, repair or painting work in pre-1978 child occupied facilities and housing. Work which disturbs more than 6 square feet per room, or 20 square feet per exterior of paint or other surface coatings that contain lead in concentrations equal to or in excess of 1.0 mg/cm<sup>2</sup> by XRF are covered by this rule.

### **LIMITATIONS**

NorBay Consulting conducted this inspection and prepared this report for the sole and exclusive use of Ezazi and Associates, the only intended beneficiary of our work. NorBay Consulting has performed this inspection in a substantial and workmanlike manner, in accordance with generally accepted methods and practices of the profession, and consistent with that level of care and skill

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ordinarily exercised by reputable environmental consultants under similar conditions and circumstances. This inspection was limited to materials and areas scheduled to be renovated as per the property owner and should not be used or viewed as a full inspection of the property and all materials present.

Enclosed you will find the laboratory reports and chain of custody form for all asbestos bulk samples collected. Also attached is a spread sheet of all lead readings.

If you have any questions regarding this report or if you require additional information, please do not hesitate to contact me at (415) 507-9786.

Sincerely,  
NORBAY CONSULTING

*Bob Gerhold*

Bob Gerhold  
Certified Asbestos Consultant #92-0157  
CDPH Lead Inspector/Assessor #12108

Limited Asbestos & Lead Assessment  
School Street Plaza  
Fairfax, California

**LABORATORY REPORTS AND  
CHAIN OF CUSTODY FORMS  
POLARIZED LIGHT MICROSCOPY (PLM)**

NorBay Consulting  
 2400 Las Gallinas Avenue, Suite 110  
 San Rafael, CA 94903  
 (415) 507-9786

Job Site: School Street Plaza  
Fairfax, California

Project Number: 7428  
 Analysis Requested: PLM  
 Turn Around Time 48 hr.

Client ID	Date	Location	Description
EWP-1	1/23/2020	Exterior, 12D-2	Window caulking
Stucco-1		Exterior, 82-A	Stucco
Stucco-2		Exterior, 8B-1	Stucco
DWTM-1		Interior, under windows, 82-A	Drywall-taping mud
TDWTM-1		Interior, wall to be demolished	Textured drywall-taping mud
TDWTM-2		Interior, wall to be demolished	Textured drywall-taping mud

Notes: email results to Bob@norbayca.com, Mike@norbayca.com

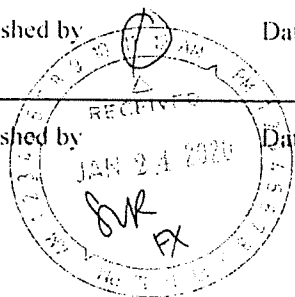
Bob Nicholas 1/23/2020

Relinquished by \_\_\_\_\_ Date \_\_\_\_\_

Relinquished by \_\_\_\_\_ Date \_\_\_\_\_

Relinquished by \_\_\_\_\_ Date \_\_\_\_\_

Relinquished by \_\_\_\_\_ Date \_\_\_\_\_





# Bulk Asbestos Analysis

(EPA Method 40CFR, Part 763, Appendix E to Subpart E and EPA 600/R-93-116, Visual Area Estimation)  
NVLAP Lab Code: 101459-0

NorBay Consulting  
Robert Gerhold  
2400 Las Gallinas  
Suite 110  
San Rafael, CA 94903

Client ID: 3982  
Report Number: B298829  
Date Received: 01/24/20  
Date Analyzed: 01/28/20  
Date Printed: 01/28/20  
First Reported: 01/28/20

Job ID/Site: 7428 - School Street Plaza., Fairfax, California

SGSFL Job ID: 3982  
Total Samples Submitted: 6  
Total Samples Analyzed: 6

Date(s) Collected: 01/23/2020

Sample ID	Lab Number	Asbestos Type	Percent in Layer	Asbestos Type	Percent in Layer	Asbestos Type	Percent in Layer
<b>EWP-1</b>	12261298						
Layer: Grey Non-Fibrous Material			ND				
Layer: Paint			ND				
Total Composite Values of Fibrous Components:		Asbestos (ND)					
Cellulose (Trace)							
<b>Stucco-1</b>	12261299						
Layer: Grey Cementitious Material			ND				
Layer: Paint			ND				
Total Composite Values of Fibrous Components:		Asbestos (ND)					
Cellulose (Trace)							
<b>Stucco-2</b>	12261300						
Layer: Grey Cementitious Material			ND				
Layer: Paint			ND				
Total Composite Values of Fibrous Components:		Asbestos (ND)					
Cellulose (Trace)							
<b>DWTM-1</b>	12261301						
Layer: White Drywall			ND				
Layer: White Joint Compound			ND				
Layer: Paint			ND				
Total Composite Values of Fibrous Components:		Asbestos (ND)					
Cellulose (20 %)      Fibrous Glass (10 %)							
<b>TDWTM-1</b>	12261302						
Layer: White Drywall			ND				
Layer: White Joint Compound			ND				
Layer: White Tape			ND				
Layer: White Texture			ND				
Layer: Paint			ND				
Total Composite Values of Fibrous Components:		Asbestos (ND)					
Cellulose (20 %)      Fibrous Glass (10 %)							

Client Name: NorBay Consulting

Report Number: B298829

Date Printed: 01/28/20

Sample ID	Lab Number	Asbestos Type	Percent in Layer	Asbestos Type	Percent in Layer	Asbestos Type	Percent in Layer
TDWTM-2	12261303						
		Layer: White Drywall	ND				
		Layer: White Joint Compound	ND				
		Layer: White Tape	ND				
		Layer: White Texture	ND				
		Layer: Paint	ND				
		Total Composite Values of Fibrous Components:	Asbestos (ND)				
		Cellulose (20 %)    Fibrous Glass (10 %)					



Tad Thrower, Laboratory Supervisor, Hayward Laboratory

Note: Limit of Quantification ('LOQ') = 1%. 'Trace' denotes the presence of asbestos below the LOQ. 'ND' = 'None Detected'.

Analytical results and reports are generated by SGS Forensic Laboratories (SGSFL) at the request of and for the exclusive use of the person or entity (client) named on such report. Results, reports or copies of same will not be released by SGSFL to any third party without prior written request from client. This report applies only to the sample(s) tested. Supporting laboratory documentation is available upon request. This report must not be reproduced except in full, unless approved by SGSFL. The client is solely responsible for the use and interpretation of test results and reports requested from SGSFL. SGSFL is not able to assess the degree of hazard resulting from materials analyzed. SGS Forensic Laboratories reserves the right to dispose of all samples after a period of thirty (30) days, according to all state and federal guidelines, unless otherwise specified. All samples were received in acceptable condition unless otherwise noted.

Limited Asbestos & Lead Assessment  
School Street Plaza  
Fairfax, California

### **XRF READINGS**

**Readings shaded in gray indicate lead based paint**

**Readings shaded in green indicate lead containing paint**



**Non-destructive Screening of Interior/Exterior Painted Surfaces**

**XRF Readings**

Site Location: School Street Plaza, Fairfax, California  
 Building: Interior & Exterior  
 Inspector: Bob Gerhold & Mike Gerhold Date: January 23, 2020

Location	Component	Wall	Substrate	Color	Paint Condition	Reading (mg/cm <sup>2</sup> )
Calibration 1						1.0
Calibration 2						1.0
Calibration 3						1.1
12112						
Interior	Wall		Wood	White	Intact	0.3
	Window frame		Metal	Green	Intact	3.8
	Window		Metal	Green	Intact	3.1
	Wall		Drywall	Yellow	Intact	0.0
	Door		Wood	Red	Intact	0.0
	Window frame		Metal	Gray	Intact	3.7
	Structural post		Metal	White	Intact	> 9.9
	Baseboard		Wood	White	Intact	0.0
Exterior	Window		Metal	Blue	Intact	4.1
	Window frame		Metal	Blue	Intact	6.5
	Overhang		Wood	White	Intact	1.7
	Posts		Wood	Blue	Intact	0.1
	Door frame		Wood	Blue	Intact	3.2
	Door		Wood	Red	Intact	0.0
Building 10 Bathroom						
Interior	Wall		Plaster	Beige	Intact	1.5
	Wall		Drywall	Beige	Intact	0.0
	Ceiling		Plaster	Beige	Intact	0.0
	Floor		Concrete	Gray	Intact	0.3
Exterior	Door frame		Wood	Green	Intact	0.2
Building 10						
Exterior	Window		Metal	Blue	Intact	1.0
	Window frame		Wood	Blue	Intact	1.3
	Windowsill		Wood	Blue	Intact	1.1
	Siding		Wood	Blue	Intact	0.1
	Foundation		Concrete	Blue	Intact	0.3
	Door		Wood	Green	Intact	0.0
	Door frame		Wood	Green	Intact	1.2
	Overhang		Wood	Gray	Intact	0.5
	Posts		Wood	Blue	Intact	0.0
Building 8						
Exterior	Overhang		Wood	Gray	Intact	0.6
	Post		Wood	Blue	Intact	0.0
	Siding		Wood	Blue	Intact	0.3
	Wall		Stucco	Gray	Intact	1.2
8A2						
Interior	Wall		Drywall	Beige	Intact	0.2
	Wall		Wood	White	Intact	0.0
8B1						
Exterior	Wall		Stucco	Beige	Intact	1.3
6-150						
Interior	Wall		Drywall	White	Intact	0.1
	Wall		Drywall	White	Intact	0.0
	Baseboard		Wood	White	Intact	0.0





# State of California

## Secretary of State

Form LP-1

### CERTIFICATE OF LIMITED PARTNERSHIP

**IMPORTANT—Read instructions on back before completing this form**

**This Certificate is presented for filing pursuant to Section 15621 California Corporations Code.**

1. NAME OF LIMITED PARTNERSHIP <b>EZAZI &amp; ASSOCIATES, LTD., L.P.</b>		
2. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE <b>2 BIENVENIDA, ORINDA, CA</b>	CITY AND STATE <b>94563</b>	ZIP CODE
3. STREET ADDRESS OF CALIFORNIA OFFICE IF EXECUTIVE OFFICE IS AN ANOTHER STATE <b>N/A</b>	CITY	ZIP CODE <b>CA</b>
4. COMPLETE IF LIMITED PARTNERSHIP WAS FORMED PRIOR TO JULY 1, 1984 AND IS IN EXISTENCE ON DATE THIS CERTIFICATE IS EXECUTED. THE ORIGINAL LIMITED PARTNERSHIP CERTIFICATE WAS RECORDED ON _____ 19____ WITH THE RECORDER OF _____ COUNTY. FILE OR RECORDATION NUMBER _____		
5. NAMES AND ADDRESSES OF ALL GENERAL PARTNERS: (CONTINUE ON SECOND PAGE, IF NECESSARY)		
A. NAME: <b>FARSHID EZAZI</b> ADDRESS: <b>2 BIENVENIDA</b> CITY: <b>ORINDA</b> STATE: <b>CA</b> ZIP CODE: <b>94563</b>	C. NAME: ADDRESS: CITY: STATE: ZIP CODE:	
B. NAME: ADDRESS: CITY: STATE: ZIP CODE:	D. NAME: ADDRESS: CITY: STATE: ZIP CODE:	
6. NAME AND ADDRESS OF AGENT FOR SERVICE OF PROCESS: NAME: <b>FARSHID EZAZI</b> ADDRESS: <b>2 BIENVENIDA,</b> CITY: <b>ORINDA</b> STATE: <b>CA</b> ZIP CODE: <b>94563</b>		
7. ANY OTHER MATTERS TO BE INCLUDED IN THIS CERTIFICATE MAY BE NOTED BE NOTED ON SEPARATE PAGES AND BY REFERENCE HEREIN ARE A PART OF THIS CERTIFICATE. NUMBER OF PAGES ATTACHED: <input type="checkbox"/>	8. INDICATE THE NUMBER OF GENERAL PARTNERS SIGNATURES REQUIRED FOR FILING CERTIFICATES OF AMENDMENT, RESTATEMENT, DISSOLUTION, CONTINUATION AND CANCELLATION. NUMBER OF GENERAL PARTNER(S) SIGNATURE(S) IS/ARE: <input type="checkbox" value="1"/> <small>(PLEASE INDICATE NUMBER ONLY)</small>	
9. IT IS HEREBY DECLARED THAT I AM (WE ARE) THE PERSON(S) WHO EXECUTED THIS CERTIFICATE OF LIMITED PARTNERSHIP (WHICH EXECUTION IS MY (OUR) ACT AND DEED. (SEE INSTRUCTIONS)		
SIGNATURE <i>Farshid Ezazi</i> <b>FARSHID EZAZI</b> General Partner 6/20/94 POSITION OR TITLE DATE	SIGNATURE <i>Mehrnaz Ezazi</i> <b>MEHRNAZ EZAZI</b> Limited Partner 6/20/94 POSITION OR TITLE DATE	
SIGNATURE _____ POSITION OR TITLE DATE	SIGNATURE _____ POSITION OR TITLE DATE	
10. RETURN ACKNOWLEDGEMENT TO: NAME <input type="checkbox"/> <b>FARSHID EZAZI</b> ADDRESS <input type="checkbox"/> <b>2 BIENVENIDA</b> CITY <input type="checkbox"/> <b>ORINDA, CA</b> <input type="checkbox"/> <b>94563</b> STATE <input type="checkbox"/> ZIP CODE <input type="checkbox"/>		
SEC/STATE REV. 1/93		

THIS SPACE FOR FILING OFFICER USE

1994 19200011

**FILED**  
In the office of the Secretary of State  
of the State of California

JUN 27 1994

*Tony Miller*  
**TONY MILLER**  
ACTING SECRETARY OF STATE

FORM LP-1 — FILING FEE: \$70.00  
Approved by Secretary of State

ATTACHMENT G

Order No.  
Escrow No.  
Loan No. 155335 AD "A"

89 65185

RECORDED AT REQUEST OF  
FIRST AMERICAN

1989 NOV -7 PM 1:00

OFFICIAL RECORDS  
MARIN COUNTY CALIFORNIA  
JAMES J. DAL BON

WHEN RECORDED MAIL TO:  
  
Ezazi & Associates,  
1270 Fascination Circle  
Richmond, CA. 94803

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:  
SAME AS ABOVE

NONE - SEE PREVIOUS

DOCUMENTARY TRANSFER TAX \$DEED

XX Computed on the consideration or value of property conveyed. OR  
..... Computed on the consideration or value less liens or encumbrances  
remaining at time of sale.

FIRST AMERICAN TITLE COMPANY OF MARIN

Signature of Declarant or Agent determining tax Firm Name

AP #: 2e112\*13

Tax Code Area: 003\*002

### CORPORATION GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
Marin County Exchange Corp.

a corporation organized under the laws of the State of \_\_\_\_\_, does hereby

GRANT to Ezazi & Associates,, a Calif. Ltd. Partnership

the real property in the City of FAIRFAX  
County of Marin \_\_\_\_\_, State of California, described as

Legal description attached hereto and made a part hereof.

Dated November 6, 1989

Marin County Exchange Corp.  
a California Corporation

STATE OF CALIFORNIA  
COUNTY OF

MARIN

By

*David M. Hellman*

President

On NOVEMBER 7, 1989  
before me, the undersigned, a Notary Public in and for said  
State, personally appeared

*DAVID M. HELLMAN*

By

Secretary

known to me to be the \_\_\_\_\_ President, and

known to me to be the \_\_\_\_\_ Secretary of  
the corporation that executed the within instrument, and known  
to me to be the persons who executed the within instrument on  
behalf of the corporation therein named, and acknowledged to me  
that such corporation executed the within instrument pursuant to  
its by-laws or a resolution of its board of directors

WITNESS my hand and official seal  
Signature *Janet M. Beito*



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

## DESCRIPTION

All that certain real property situate in the City of Fairfax, County of Marin, State of California, described as follows:

PARCEL ONE:

LOTS 24, 25 and 26, as shown upon that certain map entitled, "Map No. 1, Fairfax Park Tract, Marin Co., Calif.", filed for record June 5, 1911 in Volume 4 of Maps, at page 1, Marin County Records.

PARCEL TWO:

COMMENCING at the most Northerly corner of Lot 59, as shown upon that certain map entitled, "Frustuck and Wreden Subdivision of Fairfax Park", filed for record January 8, 1914 in Volume 4 of Maps, at page 64, Marin County Records, on the Westerly line of Marin Street and running along said line North 38° 45' West 96.3 feet; thence North 29° 13' West 24 feet to the Southerly line of a 40 foot road; thence along said last mentioned line, South 85° 21' West 96.8 feet; thence South 59° 10' West 62.55 feet and thence South 39° 51' West 23.4 feet; thence leaving said line and running South 42° 54' East 170.1 feet and thence North 54° 33' East 149 feet to the point of commencement.

Being Lot marked "27" Reserved, on a map entitled, "Map No. 1, Fairfax Park Tract", filed for record June 5, 1911 in Volume 4 of Maps, at page 1, Marin County Records. Together with all and singular the tenements.

PARCEL THREE:

LOTS 57, 58, 59, 60, 61, 62 and 63, as shown upon that certain map entitled, "Map of Frustuck and Wreden Subdivision of Fairfax Park, Marin Co., Calif.", filed for record January 8, 1914 in Volume 4 of Maps, at page 64, Marin County Records.



## RESOLUTION NO. 2019-17

**A Resolution of the Fairfax Planning Commission Approving Application # 19-14 for a Conditional Use Permit, Design Review Permit for 12 Live/Work Units and An Approximately 700 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 12 live/work units and a Design Review Permit for a 700 square foot remodel/addition to building 8; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on October 17, 2019, December 19, 2019, January 16, 2020 and March 19, 2020 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 Planning Commission has determined the School Street Plaza live/work proposal is a "homegrown" project particularly suited to the site, its existing full time residents and to the needs of the community that was created from the ground up; 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 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.

Many of the live/work spaces are already occupied, except 2 that are 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.

### **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. (FX condition)
2. The property lighting must be brought into compliance with the International Property management Code and Energy Codes lighting all walkways with fixtures spaced no less



than 30 feet apart with LED or florescent bulbs with a lumens output equivalent to a 60 watt incandescent bulb. The lights must have an on/off switch, plus an astronomical timeclock or photocell and motion sensor, or photocell and time switch. 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. (FX condition)

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. The plan shall limit light-spillage beyond the areas necessary to light the rear deck, and shall avoid direct offsite illumination. (San Rafael – Residential Uses in Commercial Districts Ordinance)
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. (FX condition)
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. (FX condition)
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. (FX condition)
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. (FX condition)

8. 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. (FX condition)
9. There shall be no storage of any materials, supplies for the business outside the building. [FX condition – TC § 17.092.050(D) and Sunnyvale Live/Work Ordinance]
10. 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). (FX condition)
11. Any equipment installed on the either the roof or exterior of the building must be screened from public view. (FX condition)
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. (Novato and Larkspur Live/Work Ordinances)
13. Each live/work tenant shall obtain an annual business license each year prior to the January 31<sup>st</sup> deadline and provide a copy of the business license to the Planning Department.
14. 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. (Larkspur Live/Work Ordinance)
15. The workspace must meet the requirements of the building and fire code for the types of activity/use being undertaken. (Larkspur and Petaluma Live/Work Ordinances)
16. The permitted work activities shall be in accordance with those permitted by the Limited Commercial CL Zone regulations. (El Cerrito Ordinance)
17. 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”. (Larkspur, Petaluma, Calistoga, San Rafael and Berkeley Live/Work Ordinances)**

- 18. 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. ). (Novato Live/Work Ordinance)**
- 19. The living space may not be rented or sub-let separately from the work space. (South San Francisco, El Cerrito, Berkeley, Concord, Larkspur Live/Work Ordinances)**
- 20. 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. The Planning Commission may grant exceptions to this limitation if a tenant applies for an exception to these sign regulations and obtains a sign permit exception from the Planning Commission. (Sunnyvale Live/Work Ordinance)**
- 21. An adequate refuse storage area shall be provided for all the commercial and live/work spaces in the School Street Plaza complex. (Petaluma, Novato, San Rafael Live/Work Ordinances)**
- 22. 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 outside the buildings). (FX condition, Sunnyvale Live/Work Ordinance)**
- 23. 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. (FX condition)**
- 24. 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 on page A2 dated 3/5/20 labeled “School Street Plaza: Live Work Spaces”. (FX condition)**
- 25. 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. (Sunnyvale, Berkeley, Concord Live Work Ordinances)**
- 26. No more than one employee excluding residents of the dwelling unit shall work or report**

to work on the premises. (South San Francisco Live/Work Ordinance).

27. 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. (FX Ordinance)
28. 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. (Sunnyvale Live/Work Ordinance)
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. (FX condition)
29. No live work bedroom occupancy may exceed the maximum number of persons allowed in the International Property Management Code (IPMC) and bedrooms exceeding 100 square feet are limited to 3 adults or 2 adults and one child. This occupancy limit would allow the live/work spaces to provide residences for the maximum residency, while not significantly increasing the amount of traffic accessing the site beyond what exists now. (FX condition)
30. 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. (FX condition)
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. (FX condition)
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. (FX condition)
33. 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. (RVFD condition)

34. Egress windows must be installed in all back rooms of suites 10C, 10D and 10E. (Building Code)
35. Conditions 9, 12, 14 through 19, 21, 25, 27, 31 and 32 shall be incorporated into the property lease agreement addendum for the live/work suites. (FX condition)
36. The shower and the expanded "kitchen" counter top in suite 12C-1 shall be removed when the current tenant moves out of the space and prior to the use of the space by another tenant. (FX condition)
37. The owner shall provide access and egress to allow all tenants to use the stairway at the northwest corner of the site that is currently locked. (FX condition)

**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 and the Design Review 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 March 19, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

\_\_\_\_\_  
Chair Green

Attest:

\_\_\_\_\_  
Ben Berto, Director of Planning and Building Services



**School Street Plaza Live Work Spaces - Comparison of Nearby (North Bay Marin and Sonoma) Codes**

Row #	Jurisdiction	Commission Use	This Project	Sebastopol	Cotati	Sausalito	Tiburon	Corte Madera	City of Sonoma	Larkspur	San Anselmo	Ross	Belvedere	Mill Valley	Rohnert Park	Novato	San Rafael	Petaluma	County of Marin	County of Sonoma	Santa Rosa	RowName
1	Population	7598		7666	7479	17,42,090		9864	11108	12396	12580	2442	2028	14355	42838	55980	59070	60870	68336	146739	177586	InCode
2	Live-work section in muni code OR			Y					19,50,050	19,16,260					17,07,020	19,34,090	14,17,100	4,70,020	26,88,124	20,42,080		Defined
3	Live-work is defined in muni code OR																					Listed
4	Live-work is listed in zoning code as a use																					UPreqd
5	Use Permit required																					sizeLimit
6	Limit in unit size (sf)																					pct_limit
7	Percentage limit (L or W)																					density
8	Density of dwelling units																					codeComply
9	Must comply to bldg and fire code																					R_incidental
10	Residence use incidental to work use																					internal_conn
11	Live and work areas are internally connected																					ownEntrance
12	Each unit has own entrance																					entryAtwork
13	Entry through work space not living space																					signs
14	Signage																					parking
15	Parking requirement																					hours
16	Hours of operation																					activities
17	Type of commercial activities allowed																					prohibUse
18	Additional prohibition of use																					notice
19	Notice of commercial nuisances of base zone																					compatible
20	Compatible with adjoining commercial uses																					retailsales
21	Retail sales on premises																					hazmats
22	No hazardous storage																					rented_sep
23	L or W cannot be rented separately																					BizLic
24	Business license required																					ownerOcc
25	Business owner must occupy																					employees
26	Employees also allowed																					openSpace
27	Open space requirement																					EnvAssess
28	Environmental assessment (Pb, asbestos)																					habitable
29	Requirement																					affordable
30	Exempt from affordable housing ordinance																					fireSepar
31	Fire separation from other units																					ADA
32	ADA requirement																					FutureUse
33	Able to change use in the future																					Findings
34	Findings required for a permit																					
35																						
36																						
37																						
38																						
39																						
40	Jurisdiction	Commission Use	This Project	Sebastopol	Cotati	Sausalito	Tiburon	Corte Madera	City of Sonoma	Larkspur	San Anselmo	Ross	Belvedere	Mill Valley	Rohnert Park	Novato	San Rafael	Petaluma	County of Marin	County of Sonoma	Santa Rosa	

**Notes**  
C condition of use permit  
Y condition of municipal code  
lw wl live  
usual no requirement unique to live-work  
base as required in base zoning  
limited varying degrees of restriction  
Sonoma live work in a commercial zone is Work - Live  
symbols mean <= and >= respectively

**Also Examined - regional**  
Berkeley pop. 12104  
Emeryville pop. 7359  
So SF pop. 7286  
Richmond pop. 8878  
Vallejo pop. 12104  
Benicia  
Napa  
Healdsburg

**Also Examined - compared by population**  
[FFX is #540 by size]

PRELIMINARY DRAFT NOT FOR DISTRIBUTION

**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's 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 \_\_\_\_\_

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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	
_____	_____	
LESSEE	DATE	
_____	_____	
LESSEE	DATE	
_____	_____	
LESSEE	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.

## 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 m<sup>2</sup>) is required for a room occupied by one person and 50 square feet (4.6 m<sup>2</sup>) 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 m<sup>2</sup>.

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 m<sup>2</sup>.

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 m<sup>2</sup>) rather than 90 square feet (8.4 m<sup>2</sup>), 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

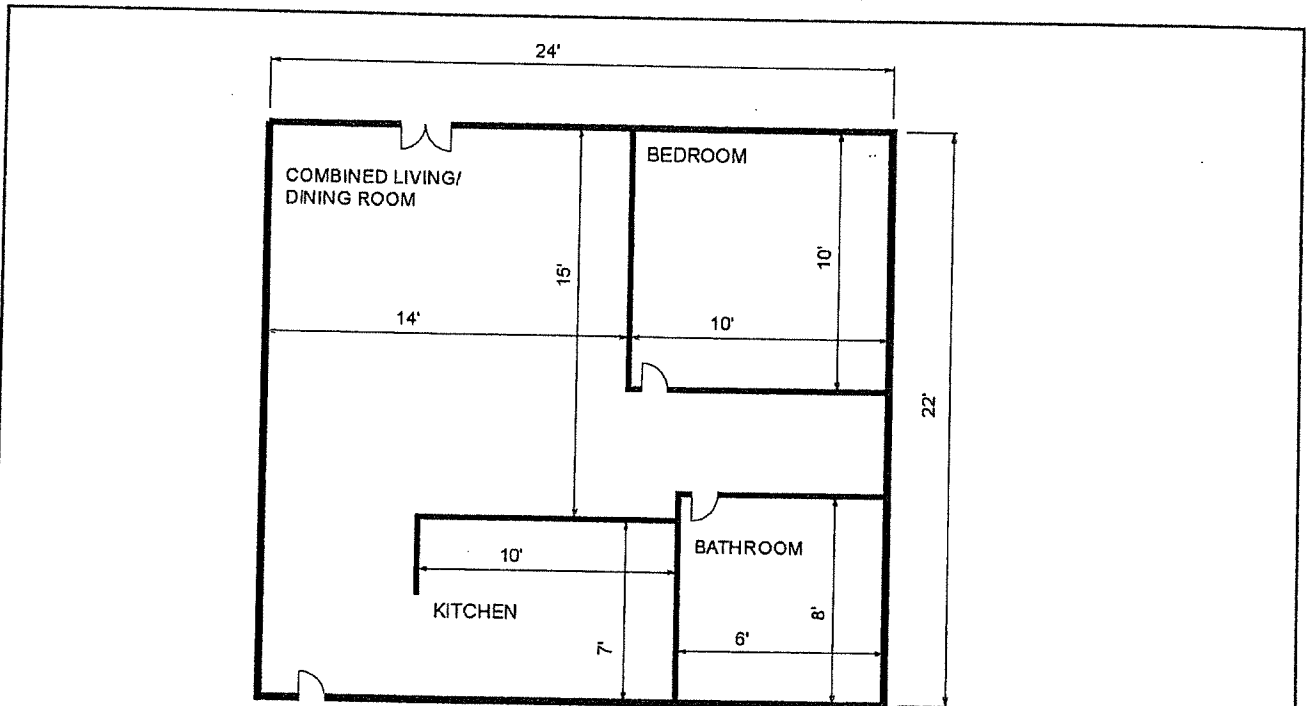
It was previously determined that the bedrooms provide sleeping space for five occupants and the living, dining and kitchen areas are adequate for any

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 m<sup>2</sup>) is necessary (Section 404.4.1), leaving 250 square feet (23.2 m<sup>2</sup>) available for combined living/dining purposes [320 square feet (29.7 m<sup>2</sup>) total minus 70

square feet (6.5 m<sup>2</sup>) equals 250 square feet (23.2 m<sup>2</sup>)]. Table 404.5 and Section 404.5.2 would allow a combined living/dining room of 250 square feet (23.2 m<sup>2</sup>) 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).



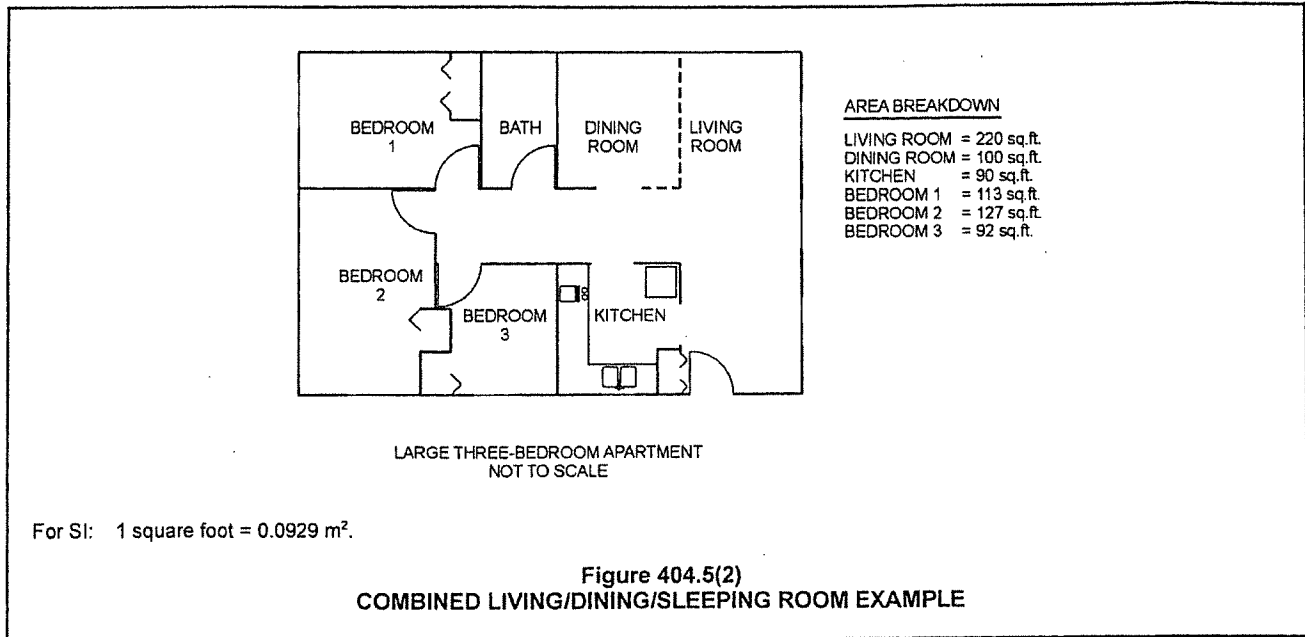
**MAXIMUM OCCUPANCY ALLOWED:**

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 m<sup>2</sup>.

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



**TABLE 404.5**  
**MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room <sup>a,b</sup>	120	120	150
Dining room <sup>a,b</sup>	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

❖ Table 404.5 establishes the minimum room sizes and the maximum occupant loads for living spaces. The code official is to use this table to determine if a residence is overcrowded. See the commentary to Section 404.5 for examples of the application of this table.

**404.5.1 Sleeping area.** The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 404.4.

❖ The purpose of this section is to prohibit the dual use of dining rooms and living rooms as sleeping rooms, unless they are of sufficient size to incorporate the minimum required space for sleeping, in addition to the minimum required space for the dining or living room areas listed in Table 404.5. For example, if a dwelling is occupied by five people and one person is using the living room as a sleeping area, the minimum required size of the living room would be 190 square feet (17.7 m<sup>2</sup>). This is based on 120 square feet (11.1 m<sup>2</sup>) for the living room, in accordance with Table 404.5, and 70 square feet (6.5 m<sup>2</sup>) for the single-occupant sleeping area, in accordance with Section 404.4.1.

The code does not prohibit a living or dining room from serving a dual purpose as a sleeping area; however, the room must be sized to accommodate both functions. See the commentary to Section 404.5 for additional examples of calculating the maximum allowable occupant load in dwellings where certain rooms are used for dual purposes.

**404.5.2 Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

❖ When a living room and a dining room are combined into one room, the combined area must equal the sum of the minimum required area of each separate room established by Table 404.5. See Analysis 2 in the commentary to Section 404.5 for further illustration.

**404.6 Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.

4. The maximum number of *occupants* shall be three.

- ❖ Efficiency units are typically very small apartments consisting of one or two rooms and a bathroom. Efficiency units that comply with this section are not required to comply with the minimum area requirements for bedrooms in Section 404.4. The total allowable number of occupants in the dwelling, however, is limited to two or three, depending on the area of the unit. The purpose of efficiency units and this section is to provide for combined use of spaces in an economical or "efficient" manner without jeopardizing health or comfort. This is possible because of the limit of total occupants to two or three persons.

Item 1 establishes the minimum required area based on the number of occupants. The item states that these areas are exclusive of the areas required by Items 2 and 3. For example, Item 2 requires that the kitchen be provided with (at minimum) a sink, cooking appliance and refrigerator. It further requires that each of these have a 30-inch (762 mm) clear working space in front of the fixture or appliance. The space taken up by the appliance and the required clear working space of 30 inches (762 mm) in front of each appliance cannot be included in the minimum required floor space in Item 1 (see the last sentence of Item 1). Similarly, the floor area of the bathroom required in Item 3 is not included in the minimum required floor space in Item 1. Lastly, Item 4 establishes the maximum occupant load as three.

There are no minimum floor areas required in the kitchen or bathroom. Having enough space for the required fixtures, appliances and working spaces is considered sufficient to provide functional floor area.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

- ❖ Kitchens must be provided with stoves, ovens, refrigerators, freezers, cabinets, countertops and drawers in sufficient quantity and in a condition that the occupants can store their food safely and at appropriate temperatures to protect the food. All equipment must be constructed and maintained so that it can be cleaned.

Food preparation areas must also be provided with garbage disposals or containers that permit the safe temporary storage of garbage and refuse. Containers should be constructed and maintained to prevent insect and rat infestations.

### Bibliography

The following resource materials were used in the preparation of the commentary for this chapter of the code:

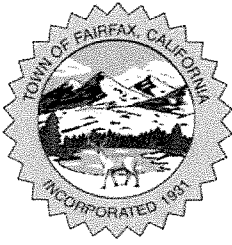
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IRC-2015, *International Residential Code.* Washington, D.C.: International Code Council, 2014.



## **TOWN OF FAIRFAX**

142 Bolinas Road, Fairfax, California 94930

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Lighting requirements based on the International Property Maintenance Code, and the Energy Code (Section 402).

The walkways around the property must have lighting using LED or florescent bulbs with a lumens output equivalent to a 60-watt incandescent bulb. The lights must be spaced no more than 30 feet apart. The lights must have an on/off switch, plus an astronomical timeclock, or photocell and motion sensor, or photocell and time switch.