

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

TO: Fairfax Planning Commission
DATE:
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 292 Forrest Avenue, 002-105-14
PROJECT: Move existing kitchen to existing bedroom on 2nd floor, and construct a bathroom in vacated space.
ACTION: Use Permit
ZONING: RS-6
APPLICANT: Robert Cabrera
OWNER: Robert Cabrera
CEQA STATUS: Categorically exempt section(s) 15301 (a)



292 FORREST AVENUE

BACKGROUND

Property history

According to the Marin County Tax Assessor's office, 292 Forrest is a 934 square foot house built in 1910 with 2 bedrooms, and 1 bathroom on a 9,042 square foot parcel. After measuring plans submitted by the applicant, Planning Staff concluded that the existing floor area is actually closer to 1,080 square feet. The property has pedestrian access to both Forrest Avenue and Bridge Court by using a public pathway consisting of steps ascending toward Forrest and a bridge crossing the San Anselmo Creek to Bridge Court. There is no automobile access to the site. According to Town of Fairfax Building Permit Records for the property, the only building permit issued for the property was for electrical improvements in 1991. The most recent Resale Inspection notes the following legal non-conforming features to the property that do not meet current code requirements: the interior ceiling heights do not meet the required minimum of 7 feet, the current building location is in the required creek setback, and no parking is provided.

DISCUSSION

The project is located in the Residential Single-family RS 6 Zone District and complies, except for the West side setback, with the regulations as follow:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6ft	12ft	35ft	5ft & 5ft	20ft	.40	.35	28.5ft, 2 stories
Existing	14ft	70ft	84ft	3ft & 25ft	25ft	.12	.13	26.5ft
Proposed	14ft	70ft	84ft	3ft & 25ft	25ft	.12	.13	26.5ft

The project requires the approval of a Use Permit. Due to an average slope of 37.6 percent, the parcel area and width are considered substandard. The structure may be maintained but not expanded or improved unless the site is brought into compliance with the current code requirements (Exhibit A). Since the site is substandard, any construction requires a use permit with discretionary review.

The proposed project description is to "move existing kitchen function on the 1st floor to existing bedroom on the 2nd floor, create new bathroom in vacated space, and remove partial wall and construct new wall at new bathroom" (Exhibit B). No new floor area would be added with these changes. After reviewing the floor area affected by the remodel, planning staff has concluded that the improvements do not constitute a 50% remodel, thus not requiring abatement of existing non-conforming uses. The applicant is proposing to increase the ceiling height on the 2nd floor from a flat 6 foot 6 inch ceiling to a sloped ceiling measuring up to 8 feet tall where the ceiling meets the interior wall to meet the minimum code requirements for ceiling height. Since this improvement is bringing the building closer to compliance, Staff decided not to require a variance for the ceiling height extension.

RECOMMENDATION

Staff recommends approval of the proposed remodel since it does not constitute an increase in living space or number of bedrooms and would not result in a substantial change over the existing use.

Recommended Findings:

1. The structure is existing and there are many residential units on substandard lots with regard to area on hillsides within the Town of Fairfax. The approval of the use permit to make improvements, without increasing the floor area of the unit, would not be a grant of special privilege.
2. The small floor area of 1,080 square feet is in character for homes on similar sloped lots in the neighborhood. Since no exterior improvements are being proposed for the building, the approval of the use permit will not result in any adverse physical effects to adjoining properties. The proposed improvements will not increase the number of bedrooms, thus not increase parking impacts beyond what they have been under previous residents.
3. The fact that the site is accessed by a pedestrian pathway and is in close proximity to the Town Center means that future residents could make many trips by foot, bicycle, or transit. The recent 2013 sale price of \$245,000¹ qualifies this house as an affordable unit for households with incomes less than 80 percent of the Area Median Income of \$100,000 for Fairfax². The property's location coupled with its moderate value coincide with the following program requirement, "Conserve and improve the condition of existing affordable housing" (H-33), and Objective H-3.1 of the General Plan, "Develop at least 21 units of affordable housing within a convenient distance from transit access points, where reduced automobile usage and parking requirements are possible" (H-41).
4. Given the limitations of the site, there is no better development opportunity for this parcel than to allow the existing affordable unit to be maintained. It is in the public interest to provide a mix of housing opportunities within the Town of Fairfax that complement the architectural character of the Town.

Conditions

1. This approval is limited to the project depicted on the plans prepared by Charles Huddleston submitted December 23rd, 2013.
2. Within sixty (60) days, the following must occur:
 - a) A building permit application must be submitted to move existing kitchen function on the 1st floor to existing bedroom on the 2nd floor and increase the ceiling height on the 2nd

1 http://www.zillow.com/homes/292-Forrest-Avenue,-Fairfax,-CA_rb/

2 2010 US Census data for Fairfax, CA: <http://quickfacts.census.gov/qfd/states/06/0623168.html>

Floor, create new bathroom in vacated space, remove partial wall and construct new wall at new bathroom, and improve foundation such that an engineer certifies it is sound (Exhibit C).

- b) Plans describing the above renovations that comply with accepted geotechnical and civil engineering practices must be submitted with a building permit application.
3. Prior to issuance of a building permit the applicant or his assigns shall secure written approval from the Ross Valley Fire Authority noting the development's conformance with their recommendations.
4. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Town Code Chapters 8.20, Noise Control, 8.32, Urban Runoff Pollution Protection, 8.12, Litter, 12.28, Obstructions on Roads and Trails and the California Building Code and California Fire Code (as amended in the Town of Fairfax Town Code).
5. Notwithstanding section # 17.072.050 of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Use Permit # 14-05. Any construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 14-05 will result in the job being immediately stopped and red tagged.
6. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

Ross Valley Fire Department Conditions:

1. A fire protection system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all

stairways with a minimum of one detector per story of the occupied portion of the residence.

3. Carbon monoxide alarms shall be provided.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

Marin Municipal Water District

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

Sanitary District

1. A new sewer connection application must be submitted. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirements of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral needs to be tested in the presence of a District Inspector and found to meet all current District requirements. The cost will be based on the number of fixtures.
2. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

Miscellaneous Conditions

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

ATTACHMENTS

Exhibit A: Pg. 2 Resale Inspection Report, June 25, 2013

Exhibit B: Pg. 2 Use Permit Application submitted by Robert Cabrera December 23, 2013

Exhibit C: Pg. 6 Resale Inspection Report, June 25, 2013

ZONING AND PLANNING INFORMATION

The following information represents the zoning and permitted uses of the property according to Town records. Any information not recorded in town records as of the date of this report will be reported as N/A (not available).

Address 292 Forrest Avenue Assessor's Parcel No. 002-105-14

Present Permitted Use: Single-family residence

Overlay Zones: Flood Zone X

Date Constructed: 1910

Permitted use under previous ordinance: residential

Required parking at time of construction: none

Zoning Designation: Residential single-family RS 6 Zone

Encroachment Permit: _____ For _____

Use Permit: _____ For _____

Variance: _____ For _____

Other: _____ For _____

X *Legal, Non-conforming (Means that the structure and/or uses are not in accordance with existing or prior zoning laws and must be corrected by abatement of the non-conformity).*

Nonconforming Features: *Include but are not limited to parcel size and width based on slope, lack of parking, ceiling heights, location in required creek setback.*

Required Zoning Action: *Structure may be maintained but may not be expanded or improved unless the site is brought into compliance with current regulations. Modifications will require discretionary permit from Planning Commission.*

Report Completed By: *Linda Neal* Date: June 25, 2013

THE LAW REQUIRES THAT, PRIOR TO THE CONSUMMATION OF THE SALE OR EXCHANGE OF PROPERTY, THE SELLER MUST DELIVER THIS REPORT TO THE BUYER (S), AND THE BUYER (S) MUST SIGN AND RETURN THE ATTACHED POSTCARD TO THE FAIRFAX TOWN HALL.

- This report will not be considered complete until:**
- 1) The postcard is signed and returned to the Town of Fairfax; and**
 - 2) The Building Official acknowledges compliances on page 7 signs the report.**

PROJECT DESCRIPTION: MOVE EXISTING KITCHEN FUNCTION ON 1ST FLOOR TO EXISTING BETHROOM ON 2ND FLOOR; CREATE NEW BATHROOM IN VACATED SPACE; REMOVE PARTIAL WALL AND CONSTRUCT NEW WALL AT NEW BATHROOM

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size	9042 SQ. FT.	9042 SQ. FT.
Size of structure(s) or commercial space (square feet)		
Height and No. of stories	28 FT. - 2 STORIES	28 FT. - 2 STORIES
Lot coverage	10%	10%
No. of dwellings units	1	1
Parking ¹ No. of spaces	0	0
Size of spaces	-	-

Amount of proposed excavation and fill	Excavation = 0	Fill = 0
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Estimated cost of construction \$ _____

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

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

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? NONE

[Signature]
Signature of Property Owner

SAME
Signature of Applicant

12/23/13
Date

Date

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

Mechanical:

- 1) _____ Appliances and receptacles installed in garage generating a glow, spark or flame shall be located 18" above floor. Provide protective post or other impact barrier if the appliances are at risk of damage.
- 2) _____ Provide combustion air from exterior or other approved source for all gas-fired appliances as required.
- 3) _____ Provide a spark arrestor for your chimney with screening, 1/2" openings maximum. Remove tree limbs within ten feet of chimney (tree limbs 24" or more in circumference, require a tree permit be granted).
- 4) _____ Furnaces installed in attics and crawl spaces must have an access platform (catwalk in attics), light, switch and receptacle in the space. Provide a receptacle with fusible link for furnace.
- 5) _____ All flues shall be maintained in good order and not leak at joints or couplings. Repair, secure and/or replace flues as required to ensure proper ducting of appliance. H20 heater
- 6) _____ The gas service to all appliances must be provided with an epoxy coated, flexible gas connector.

Structural:

- 1) _____ The foundation shows extensive cracking and distress. It is recommended that a licensed professional (architect-engineer) be retained to analyze the structure.
- 2) _____ The foundation mudsill is not attached to the concrete foundation with anchor bolts. It is recommended that a licensed professional (architect-engineer) be retained to analyze the foundation.
- 3) _____ The fireplace and/or chimney show signs of distress due to settlement, defective materials or deterioration. It is recommended that a licensed professional (architect-engineer) be retained to analyze the structure.

Miscellaneous:

- 1) _____ Foundation is in poor condition. Permits will not be issued for structural work on the house until permits are issued and work is done on the foundation such that an engineer certifies that the foundation is sound.
- 2) _____