



# TOWN OF FAIRFAX

## STAFF REPORT

### November 18, 2015

**TO:** Planning Commission

**FROM:** Jim Moore, Director of Planning and Building Services

**SUBJECT:** Discussion Items / Talking Points

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#### DISCUSSION ITEMS

1. Follow-up discussion on the October 22, 2015, PC Workshop on the "Wall Property".
  - Any specific PC concerns about the development of the property?
  - Any specific PC direction for the property owner?
2. Follow-up discussion on the October 29, 2015, TC Forum on amending the Town Code and the Zoning Map, rezoning all properties in the Highway Commercial CH zone district to Central Commercial CC zone district.
  - Please see the attached list of comments from Forum (**Attachment A**) and make comments as appropriate.
  - Any recommendations on the preferred sizes of units?
  - Any specific recommendations on parking requirements?
3. Discuss the parameters for amending the Town Code to allow and regulating Junior Second Units (JSU) within existing single-family residences in all residentially zoned areas within the Town limits.
  - Please see the attached pages from the 2015 Housing Element on creating a JSU ordinance, and the material provided by Lilypad Homes to assist in drafting an ordinance (**Attachment B**).
  - Please confirm preferred maximum and minimum sizes JSU's; or other issues (?).
4. Discuss regulating Airbnb short-term rentals within existing single-family residences and/or second units (ancillary or attached) within all residentially zoned areas within the Town limits.
  - Please see attached issues list on short term rentals (**Attachment C**).
  - Please advise staff on recommended actions (if any).
5. Zoning Ordinance Updates: Issues, list prioritization and schedule of first meeting to start addressing zoning code amendments.
  - Please see the Commission's priorities list (**Attachment D**) and provide guidance on the timing of implementing these changes with Zoning Ordinance updates – per the 2015 Housing Element.

AGENDA ITEM DISCUSSION

## General Plan/Housing Element Forum on CH to CC Housing

Wednesday, October 29, 2015

### Meeting Notes

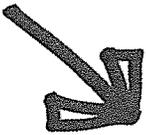
- Two (2) parking spaces per bedroom or unit with bedrooms (e.g., not studio)
- “No use permit”-define.
- Deed restrictions.
- Why change from CH to CC?
- Is this giving owners of properties the right to “develop” (add second floor)?
- Conflict with GP “no net loss of parking” and this.
- What happens if Town doesn’t create all these units (Town creates zones only)?
- Concerns regarding parking-where will these two (2) parking spaces come from?
- Parking is already a problem-sounds like it won’t be addressed until later.
- Concern for losing conditional use permit-is it a protection?
- Concern with affordability being fostered and ensured. Guidelines for size of units, how many of each.
- Homeward Bound programs-include in guidelines?
- Sees opportunity to plan for the future we want.
- Adds climate change as consideration.
- Whistlestop’s lease restriction-no car.
- Believes size limits help with affordability; and number of units.
- Wants to embrace people of all walks of life-affordability.
- Time to get out of our cars-encourage less need for parking rather than try to maintain it.
- Plan for people, not cars.
- Why add commercial? Generates traffic and parking.
- Asks how rent stabilization would work?
- Affordability includes low and medium income too.
- Believes too many people in too small a place.
- Influences that contribute to traffic-“tourism” (bikes)-residential parking permit might help.
- Could you add parking under two (2) floors-height limits? Excavate?
- Historic large buildings in CH-could be lost if changes to CC.
- Guarantee by right takes away Town’s ability to say no to projects.
- Walkable, livable downtown a plus-for business, environment, community.
- Rezoning will tie our hands. Real estate will be bought by developers. Safer to look at projects and decide.
- Would prefer to work out Town Center element first.
- Supports idea of small units for affordability.
- Supports housing for very low and low income-greatest need.
- Supports requirement for low- energy development.
- Concern with developers finding loopholes.

~~Town shall evaluate alternate options for the use of In-Lieu Fees that would benefit affordable housing goals.~~

~~Responsibility: Planning and Building Services~~

~~Schedule: 2016–2023~~

~~Funding Source: Affordable housing in-lieu fees~~



Program H-6.1.2.6:

*Junior Second Unit Ordinance.* Review and adopt zoning standards and fees that serve to incentivize the creation of junior second units. Standards and fee considerations should include, but not be limited to, the following:

Zoning Standards to consider:

- Conversion of existing bedroom required – no building expansion;
- Maximum 500 square-foot size;
- Wet-bar type kitchen only with limitations on size of sink, waste line and counter area;
- Cooking facility limited by electrical service (110v maximum) and prohibition of gas appliances;
- Separate bathroom permitted, but not required;
- Require external access and internal access to the remainder of the home;
- No additional parking required if dwelling complies with current parking standards;
- Owner occupancy required and established by recorded deed restriction; and
- Ministerial approval process.

Fees considerations:

- Establish a minimal “flat fee” for a planning entitlement;
- No Town Development Impact Fees charged; and



*Lilypad Homes*

## Junior Second Units (JSU) – Flexible Housing

### Findings:

1. Causation: Critical need for housing for lower income families and individuals given the high cost of living and low supply of more affordable homes for rent or purchase, and the difficulty, given the current social and economic environment, in building new affordable housing
2. Mitigation: Create a simple and inexpensive permitting track for the development of junior second units that allows spare bedrooms in homes to serve as a flexible form of infill housing, and makes local, state and federal loans available for their development
3. Endangerment: Provisions currently required under agency ordinances are so arbitrary, unreasonable, or burdensome as to restrict the ability of homeowners to legally develop these units therefore encouraging homeowners to bypass safety standards and procedures that make the creation of these units a benefit to the whole of the community
4. Benefits of Junior Second Units: Offer a more affordable housing option to both homeowners and renters, creating economically healthy, diverse, multi-generational communities
5. Co-Benefits: Homeowners (particularly retired seniors and young families, groups that tend to have the lowest incomes) - generating extra revenue, allowing people facing unexpected financial obstacles to remain in their homes, housing parents, children or caregivers; Homebuyers - providing rental income which aids in mortgage qualification under new government guidelines; Renters – creating more low-cost housing options in the community where they work, go to school or have family, also reducing commute time and expenses; Municipalities – helping to meet RHNA goals, increasing property and sales tax revenue, insuring safety standard code compliance, providing an abundant source of affordable housing with no need for additional infrastructure; Community - housing vital workers, decreasing traffic, creating economic growth both in the remodeling sector and with new customers for local businesses; Planet - reducing carbon emissions, using resources more efficiently.

### Therefore the following ordinance is hereby enacted:

This Section provides standards for the establishment of junior second units, an alternative to the standard second unit, permitted as set forth under State Law AB 1866 (Chapter 1062, Statutes of 2002) Sections 65852.150 and 65852.2 and subject to different provisions under fire safety codes based on the fact that junior second units do not qualify as “complete independent living facilities” given that the interior connection from the junior second unit to the main living area remains, therefore not redefining the single-family home but rather building in the option to temporally privatize bedrooms into a flexible housing unit.

A. *Development Standards.* Junior second units shall comply with the following standards, including the standards in Table below:

1. *Number of Units Allowed.* Only one junior second unit may be located on any residentially zoned lot that permits a single-family dwelling except as otherwise regulated or restricted by an adopted Master Plan or Precise Development Plan. A junior second unit may only be located on a lot which already contains one legal single-family dwelling.
2. *Occupancy:* Either the primary dwelling or the junior second unit must be occupied by the owner or leased as a long-term rental.



## *Lilypad Homes*

2. The junior second unit is restricted to the maximum size allowed per the development standards;
3. The junior second unit shall be considered legal only so long as the owner of record of the property, or a long-term renter occupies either the primary residence, or the junior second unit;
4. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with this provision may result in legal action against the property owner, including revocation of any right to maintain a junior second unit on the property.

C. *No Water Connection Fees:* No agency will be allowed to require a water connection fee for the development of a junior second unit. An inspection fee to confirm that the dwelling unit complies with development standards may be assessed.

D. *No Sewer Connection Fees:* No agency will be allowed to require a sewer connection fee for the development of a junior second unit. An inspection fee to confirm that the dwelling unit complies with development standards may be assessed.

E. *No Fire Sprinklers and Fire Attenuation:* No agency will be allowed to require fire sprinkler or fire attenuation specifications for the development of a junior second unit. An inspection fee to confirm that the dwelling unit complies with development standards may be assessed.

### **Definitions of Specialized Terms and Phrases**

**Second Units:** An attached or detached second permanent dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes efficiency units and manufactured homes.

**Junior Second Unit:** An optional second unit that is accessory to a legal primary dwelling and developed from at least one bedroom. A junior second unit provides flexible independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and cooking. Cooking and food preparation facilities shall be limited to an efficiency kitchen. Sanitation facilities may be independently provided for the junior second unit or may be shared with occupants of the primary dwelling.

## REGULATION OF SHORT TERM AIRBNB RENTALS?

One option for the Commission to consider is an incremental approach. The Commission could decide to allow the rental of rooms in residences and not entire houses and try it for 12-24 month test period. This would allow time for the Town to monitor the situation to determine if it is a problem. In addition, should Senator McGuire's legislation (SB 593) regulating short-term/vacation rental of residential units be approved, staff would be able to evaluate its impacts on the various issues.

- If allowed, what should be the process to approve short-term rentals (e.g., use permit, amend zoning code)?

As current Town Code does not allow such uses, the Town would need to amend the current Zoning Code. The Town could amend the Zoning Code to allow the use in residential zones and require a business license or establish an administrative use permit process to allow such uses. An administrative use permit is a less costly and simplified version of a use permit.

Staff would work with the Planning Commission to identify which sections of the Municipal Code including the Zoning Code would need to be revised.

- Should only rooms, with the owner living on the premises, or the entire house/unit be allowed to be rented out?

While we haven't received complaints about "party houses" regarding noise, traffic, and parking, other communities state it can be a problem. The rental of private rooms in homes are perceived to have less concerns since the property owners are present to address any issues.

- Would this impact the legalization and/or use of second units?

Second units are considered a source of affordable rental housing. The Council may not want to allow second units to be used for short term rentals because it would adversely impact the Town's efforts of creating more affordable housing. On the flip side, permitting short term rentals of second units may encourage owners to legalize such units or allow the Town to discover illegal second units.

- Should there be time limits on the number of rental days?

Some communities impose limits. Staff does not know if it is an issue or not.

- How would staff enforce a prohibition or monitor compliance?

**Planning Commission's priorities list for staff assisted ordinance amendments:**

**(May 28, 2015)**

1. Second Unit & Amnesty Ordinance updates
2. Development Standards; How to count floors in the residential zones
3. Green Building Ordinance
4. Parking Requirements in residential zones
5. Tree Ordinance; So that the PC can grant removal permits
6. Elimination of APN tables

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**ATTACHMENT D**