



APPLICATION ACCEPTED: October 29, 2010
BOARD OF ZONING APPEALS: January 26, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

January 19, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-SP-064

SPRINGFIELD DISTRICT

APPLICANT: Alan Diamond

OWNERS: Alan D. Diamond and Trang N. Diamond*
(*also known of record as Trang D. Nguyen)

SUBDIVISION: West Springfield Village

STREET ADDRESS: 7006 Vancouver Road

TAX MAP REFERENCE: 89-2 ((7)) 168

LOT SIZE: 11,054 square feet

ZONING DISTRICT: R-2 (Cluster)

ZONING ORDINANCE PROVISIONS: 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2010-SP-064 for an accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

O:\SMCKN\SP\DIAMOND SP 2010-SP-064 (ADU)\Staff Report Diamond\Staff Report Diamond.doc

Shelby Johnson

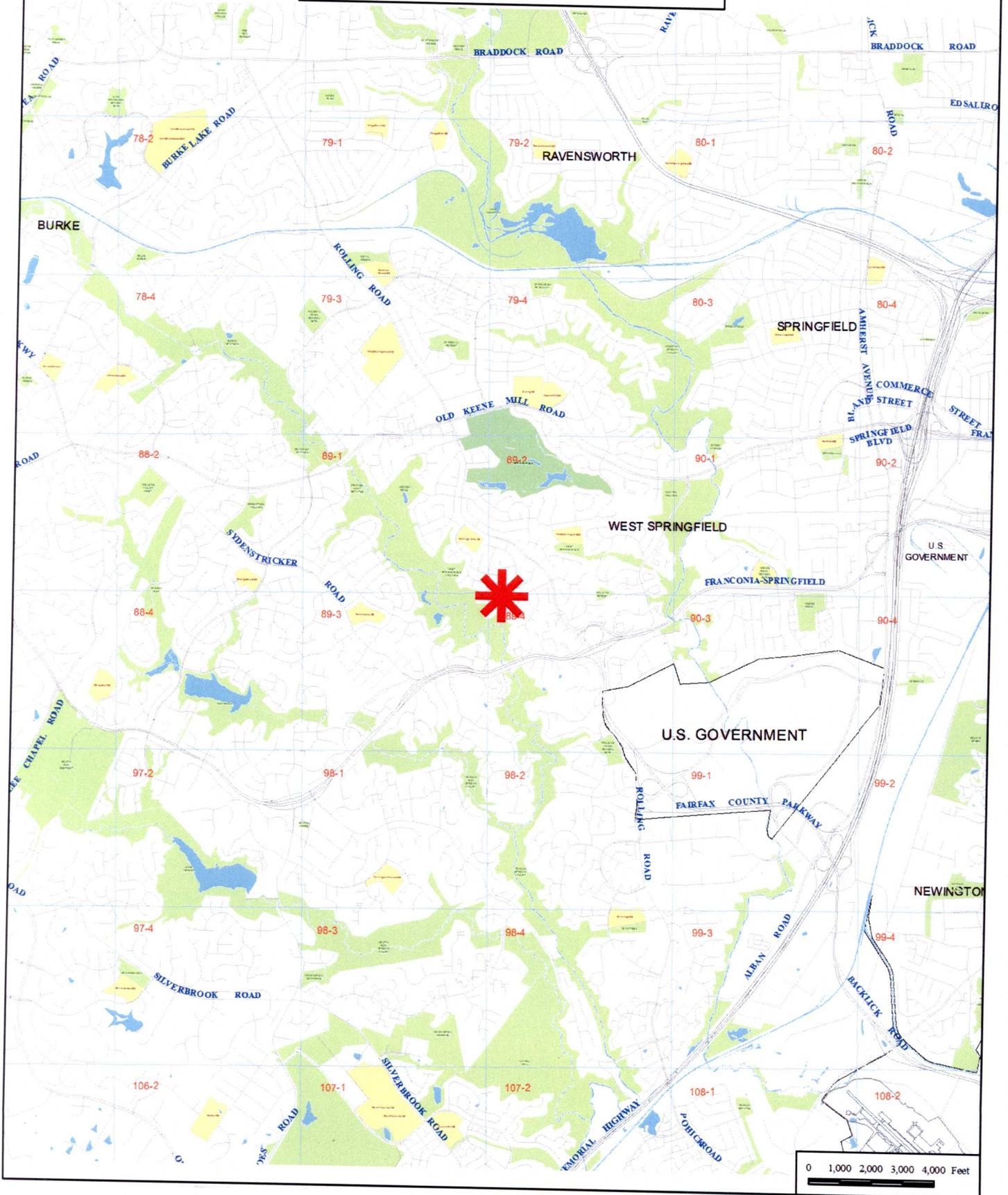
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

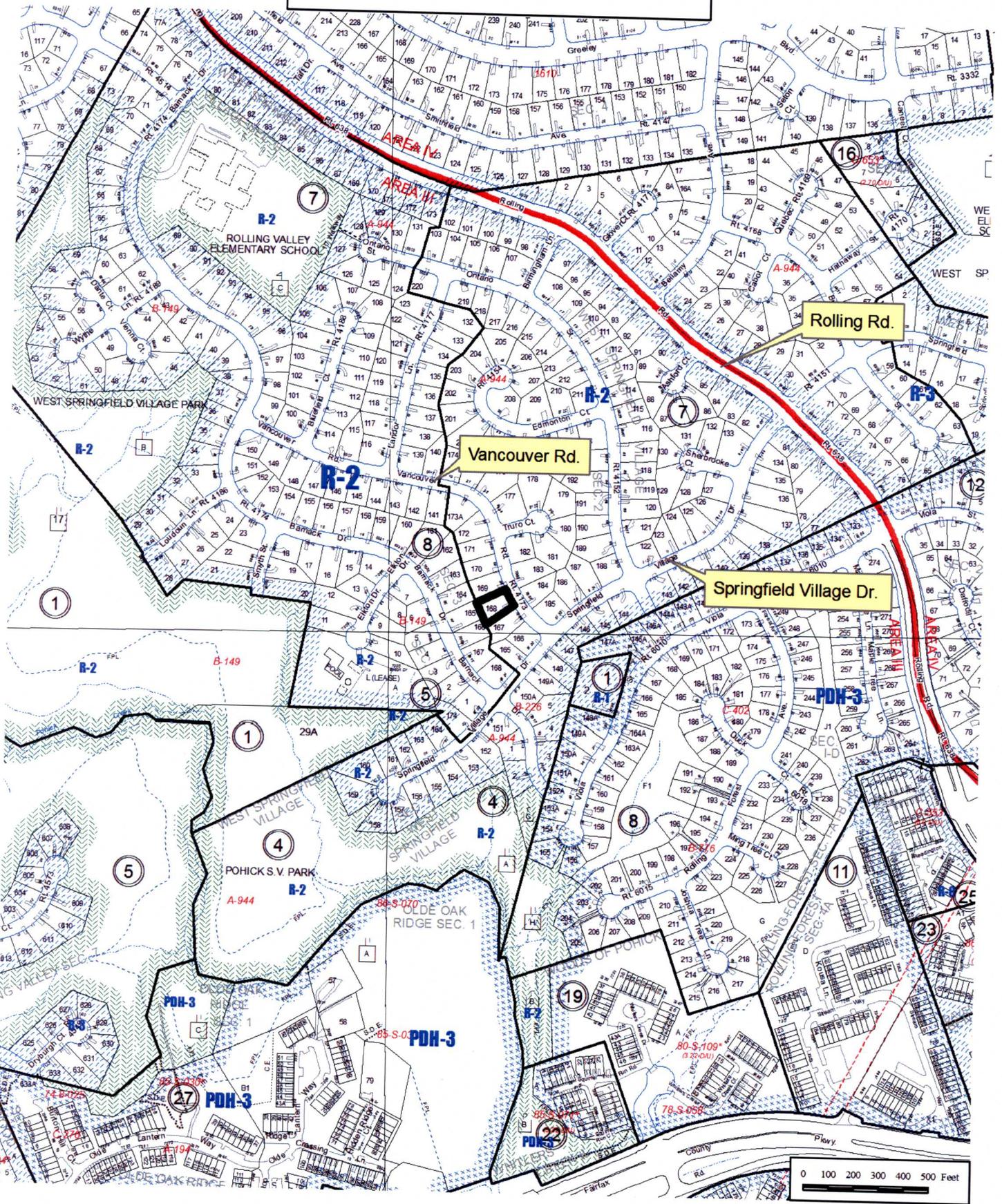


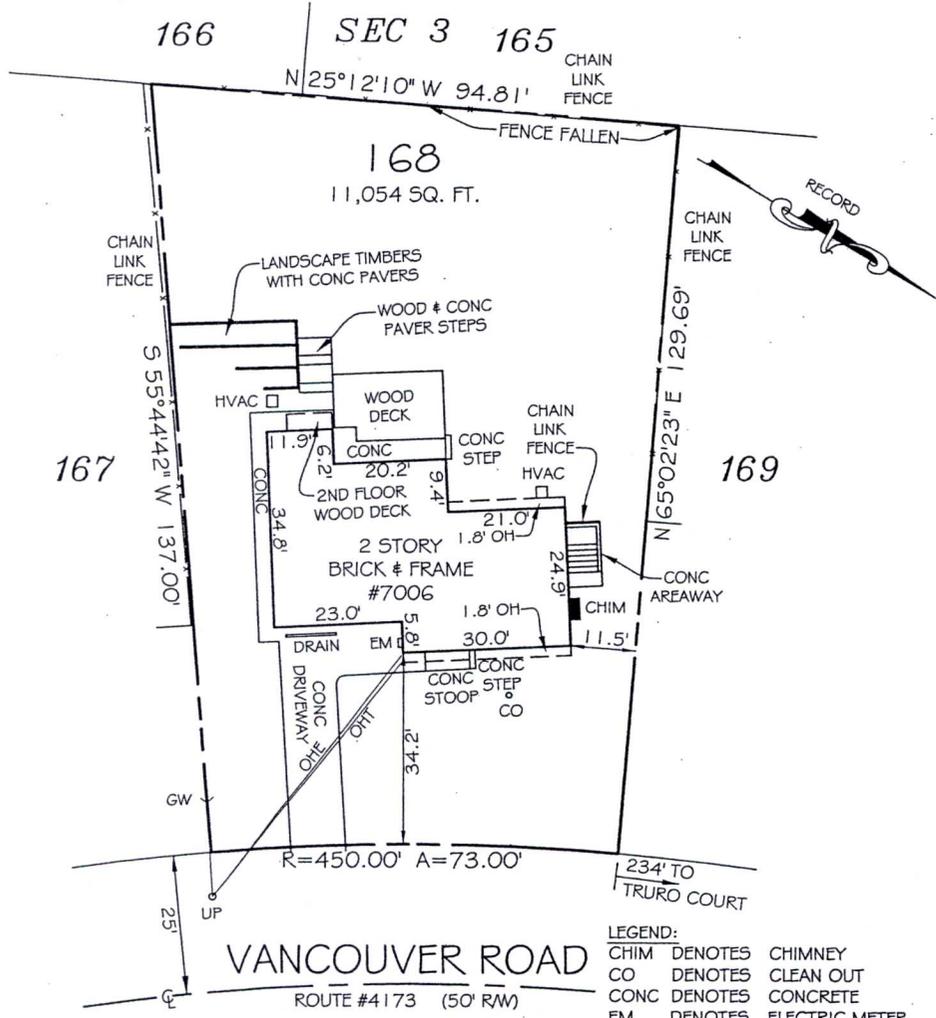
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2010-SP-064
Alan Diamond



Special Permit
SP 2010-SP-064
ALAN DIAMOND



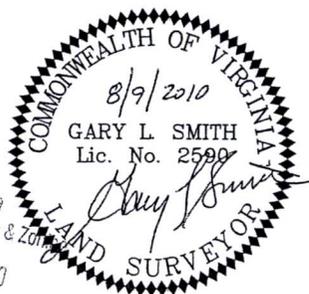


LEGEND:
 CHIM DENOTES CHIMNEY
 CO DENOTES CLEAN OUT
 CONC DENOTES CONCRETE
 EM DENOTES ELECTRIC METER
 GW DENOTES GUY WIRE
 HVAC DENOTES HEATING, AIR CONDITIONING UNIT
 OH DENOTES OVERHANG
 OHE DENOTES OVERHEAD ELECTRIC
 OHT DENOTES OVERHEAD TELEPHONE
 UP DENOTES UTILITY POLE

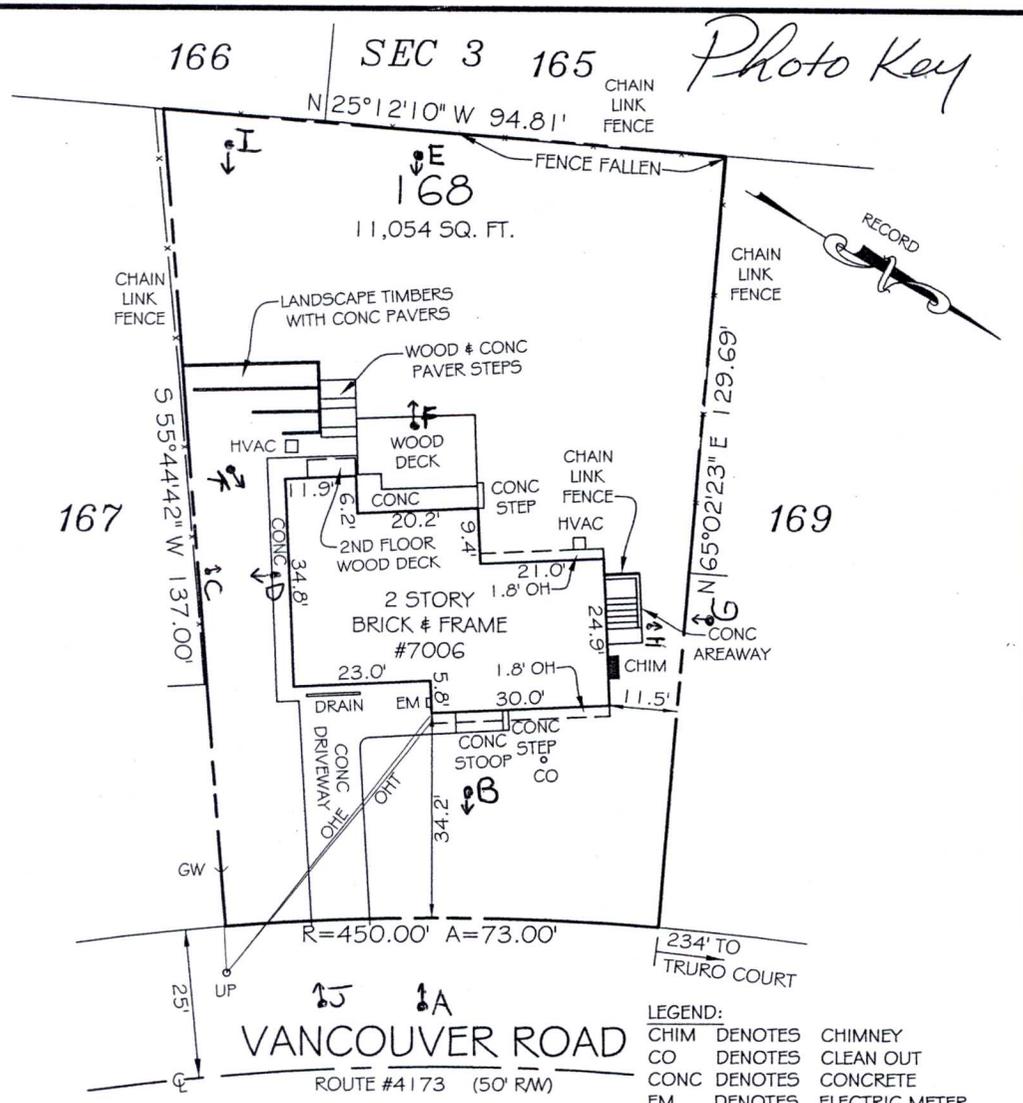
- NOTES:
 1. FAIRFAX COUNTY TAX PARCEL 89-2-07-168.
 2. NO TITLE REPORT FURNISHED. EASEMENTS MAY EXIST THAT ARE NOT SHOWN.
 3. BOUNDARY INFORMATION TAKEN FROM LAND RECORDS.
 4. THIS PROPERTY IS LOCATED IN FLOOD ZONE "X," AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN, AS TAKEN FROM FEMA FLOOD INSURANCE RATE MAP 515525 0075 D, MAP REVISED MARCH 5, 1990.
 5. PROPERTY CORNERS NOT SET PER WAIVER REQUEST.

HOUSE LOCATION SURVEY
 LOT 168
 SECTION 2
 WEST SPRINGFIELD VILLAGE
 DEED BOOK 2707 AT PAGE 171
 DEED BOOK 2797 AT PAGE 355 (PLAT OF CORRECTION)
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 25' DATE: AUGUST 9, 2010

BALANCED LAND SURVEYING, PLLC
 PO BOX 1038
 MANASSAS, VIRGINIA 20108
 571.292.7111 T
 703.392.4886 F



RECEIVED
 Department of Planning & Zoning
 AUG 20 2010
 Zoning Evaluation Division

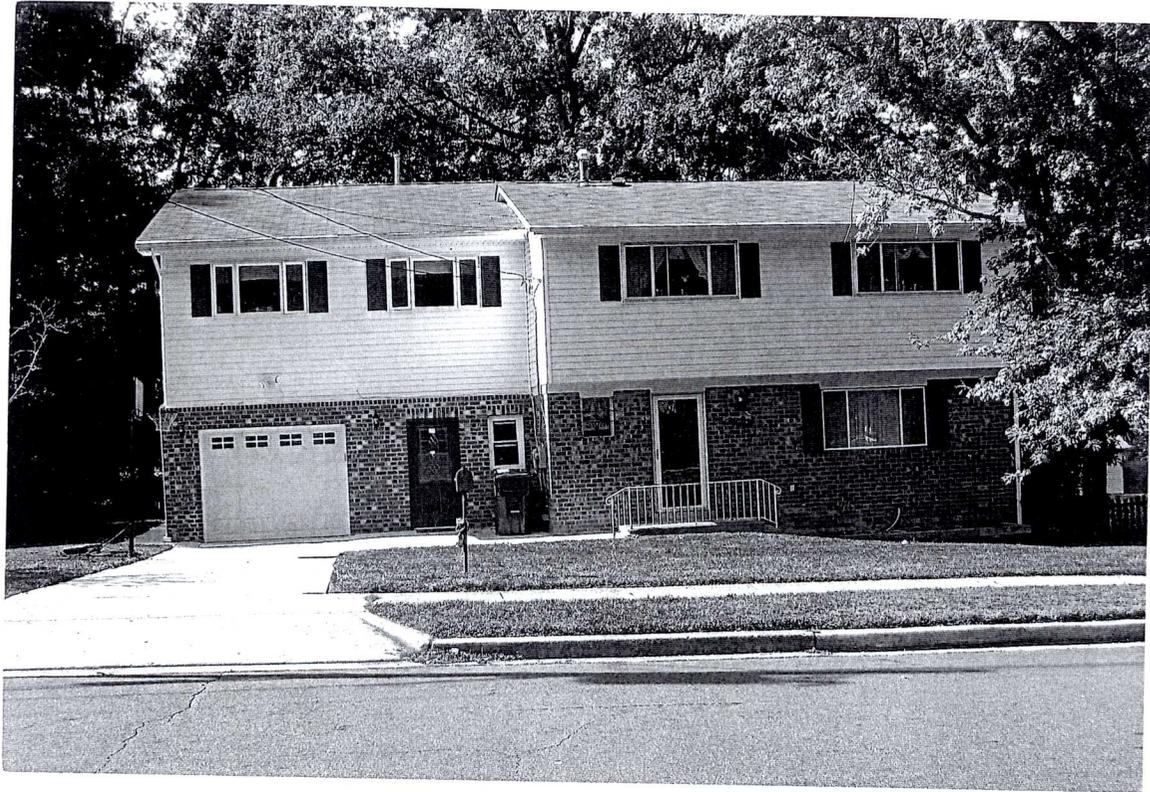


- NOTES:**
1. FAIRFAX COUNTY TAX PARCEL 89-2-07-168.
 2. NO TITLE REPORT FURNISHED. EASEMENTS MAY EXIST THAT ARE NOT SHOWN.
 3. BOUNDARY INFORMATION TAKEN FROM LAND RECORDS.
 4. THIS PROPERTY IS LOCATED IN FLOOD ZONE "X," AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN, AS TAKEN FROM FEMA FLOOD INSURANCE RATE MAP 515525 0075 D, MAP REVISED MARCH 5, 1990.
 5. PROPERTY CORNERS NOT SET PER WAIVER REQUEST.

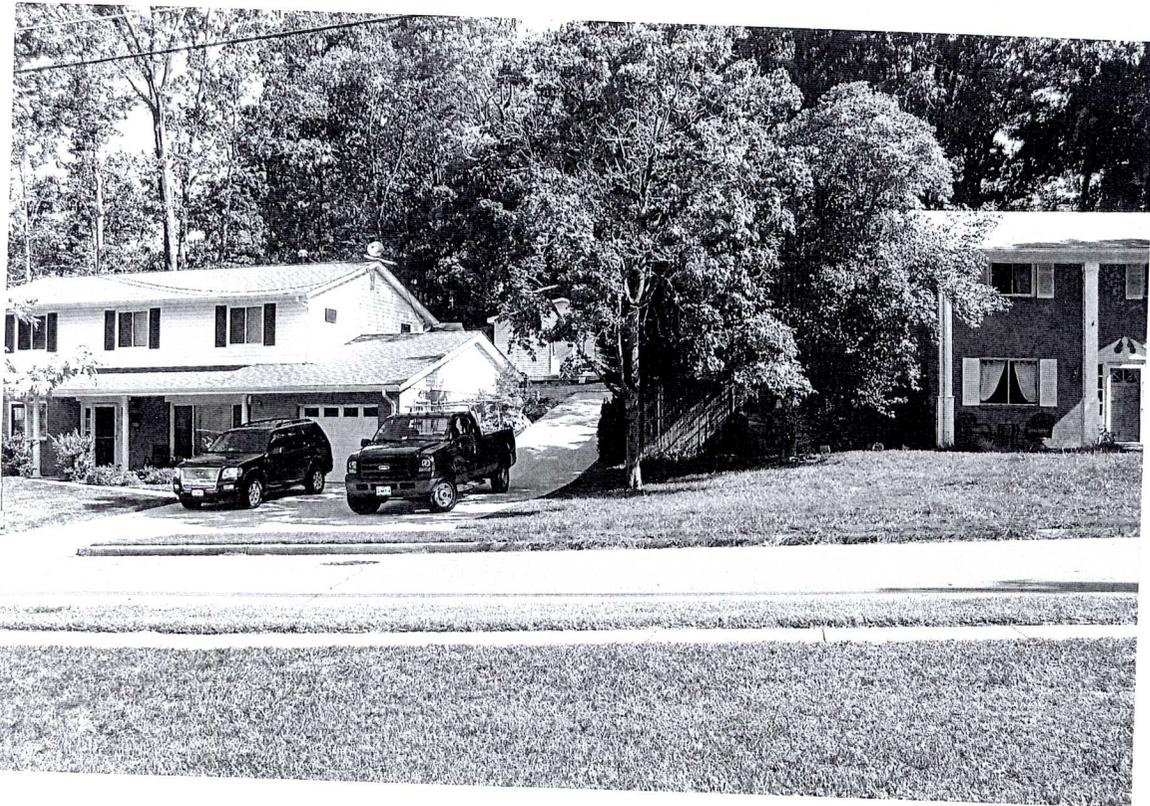
HOUSE LOCATION SURVEY
 LOT 168
 SECTION 2
 WEST SPRINGFIELD VILLAGE
 DEED BOOK 2707 AT PAGE 171
 DEED BOOK 2797 AT PAGE 355 (PLAT OF CORRECTION)
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 25' DATE: AUGUST 9, 2010
BALANCED LAND SURVEYING, PLLC
 PO BOX 1038
 MANASSAS, VIRGINIA 20108
 571.292.7111 T
 703.392.4886 F



RECEIVED
 Department of Planning & Zoning
 AUG 20 2010
 Zoning Evaluation Division



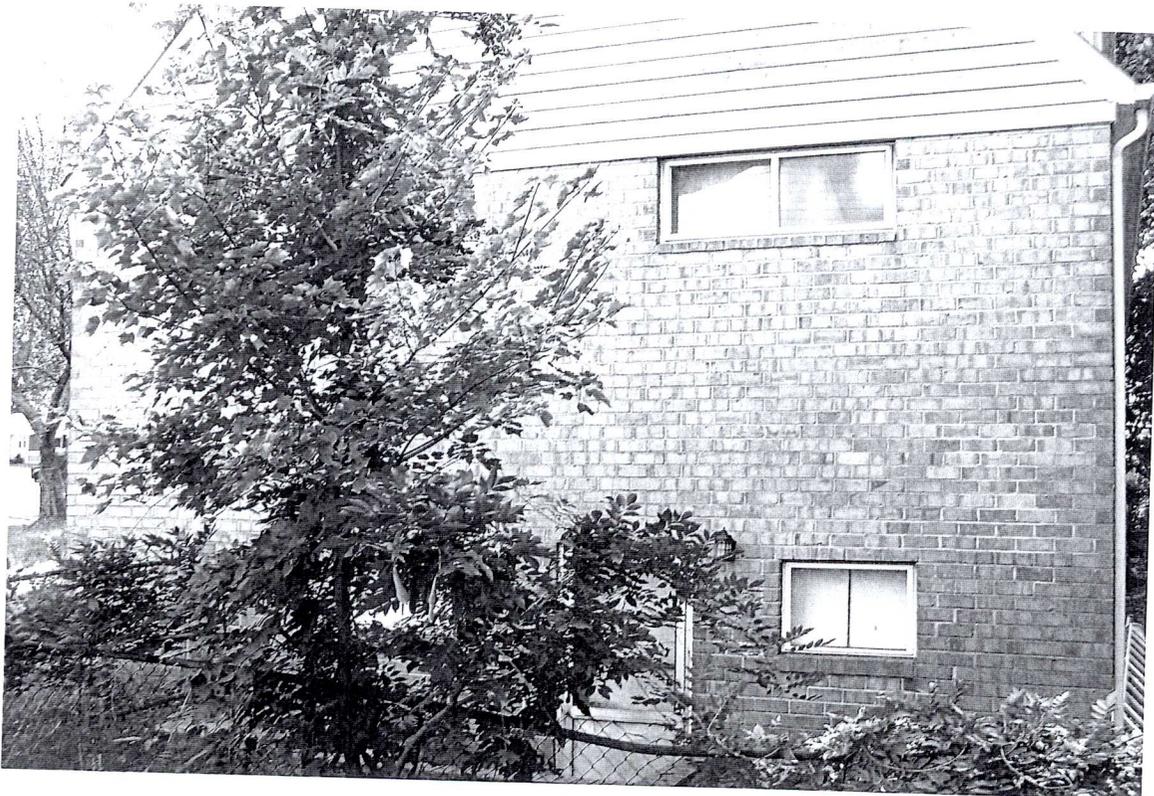
(A)



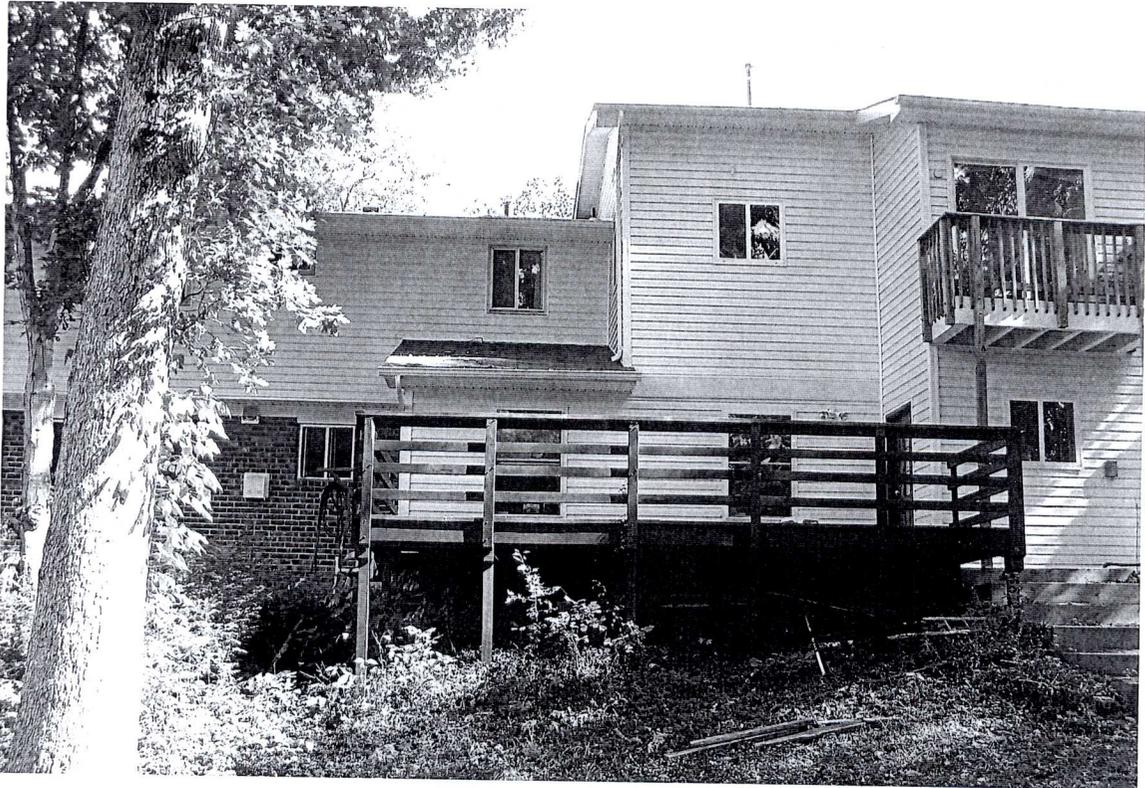
(B)



(C)



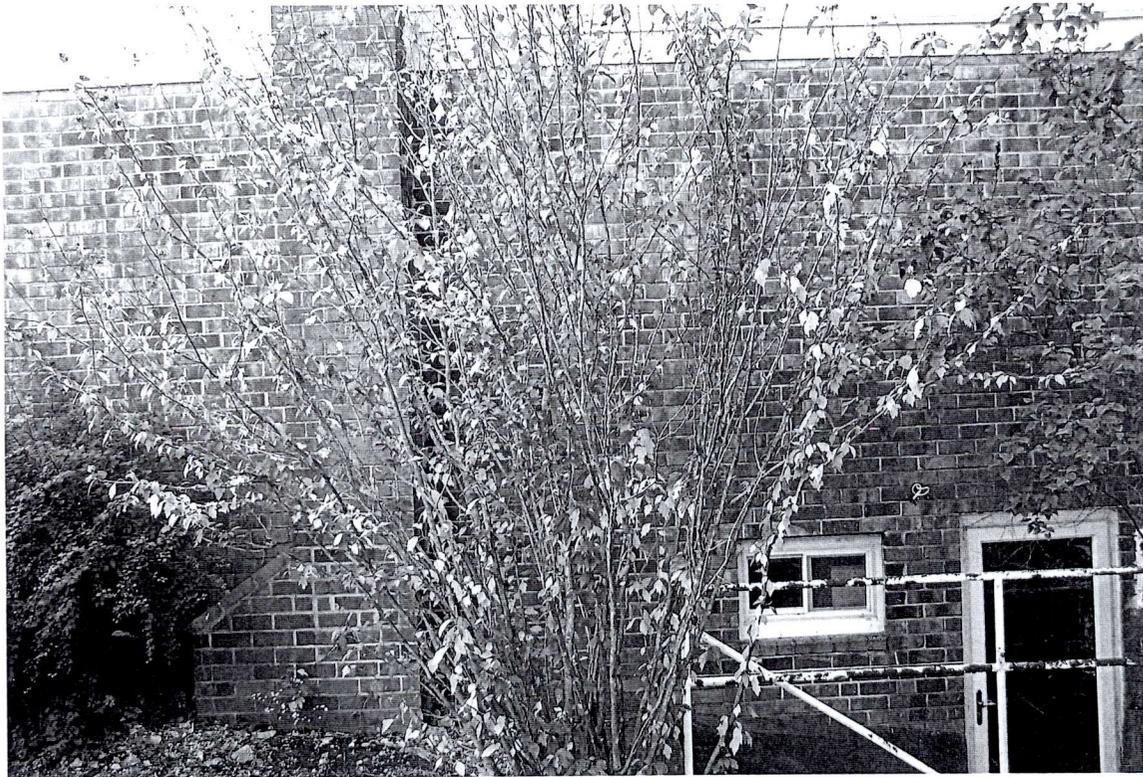
(D)



E



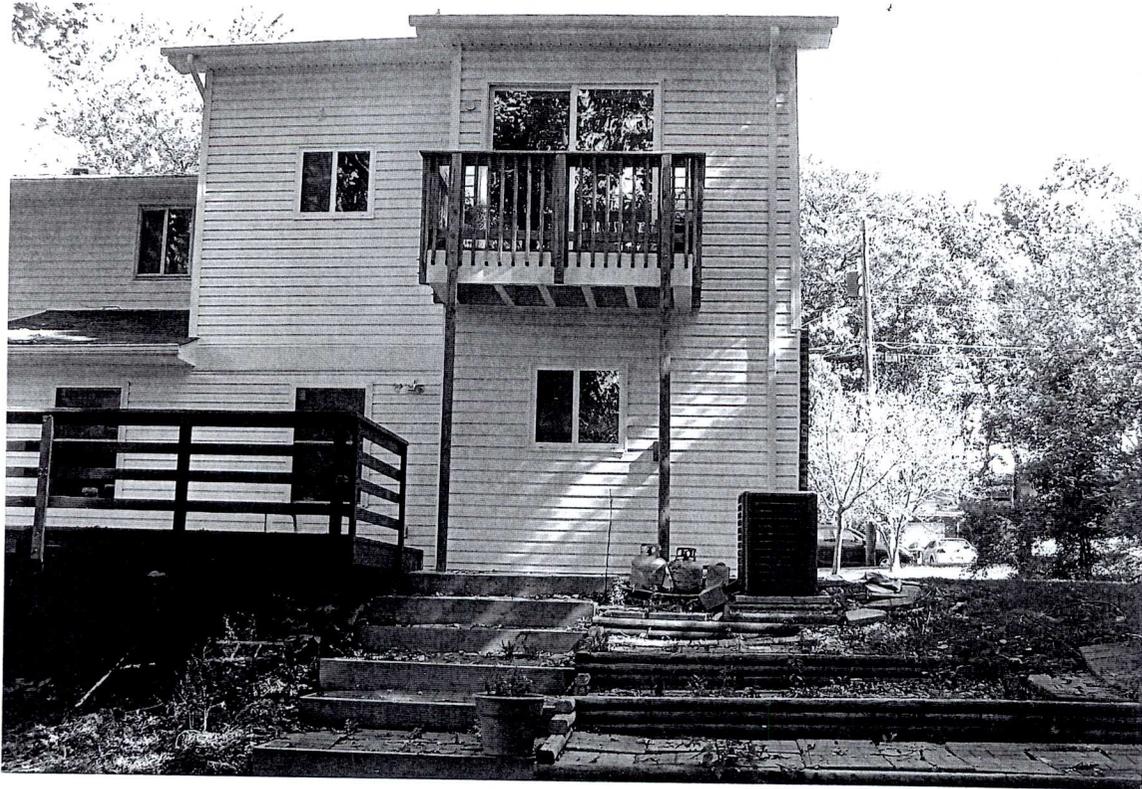
F



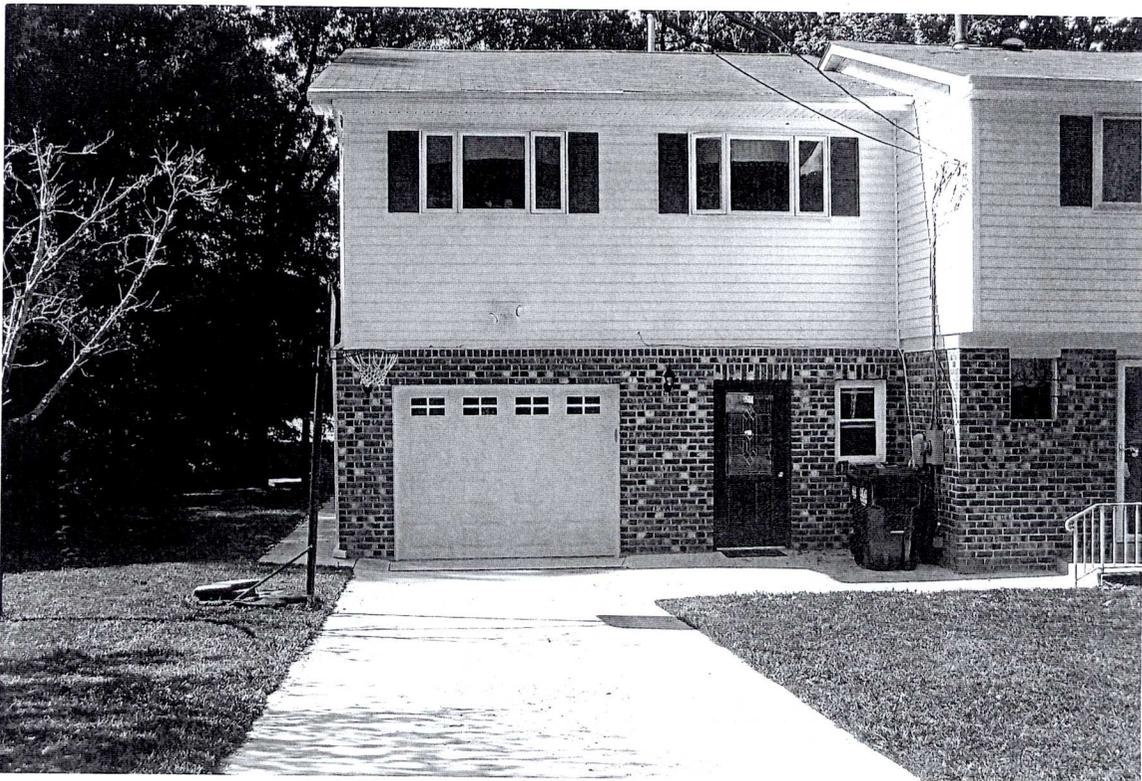
G



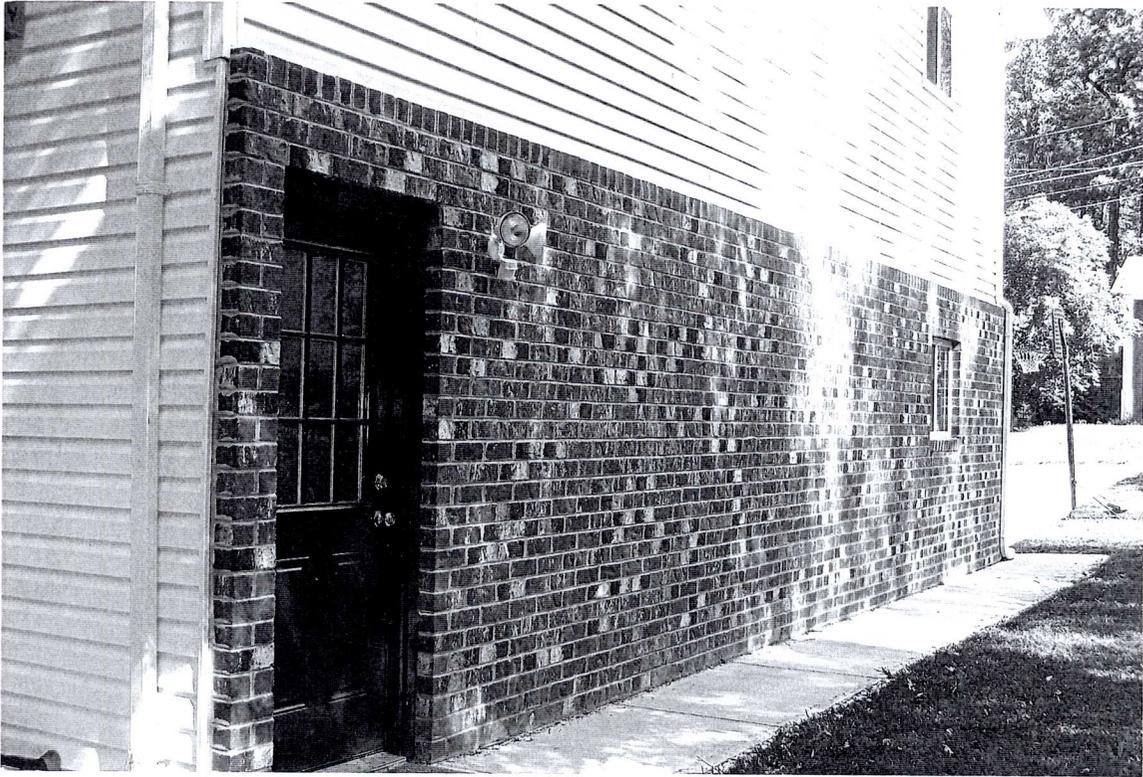
H



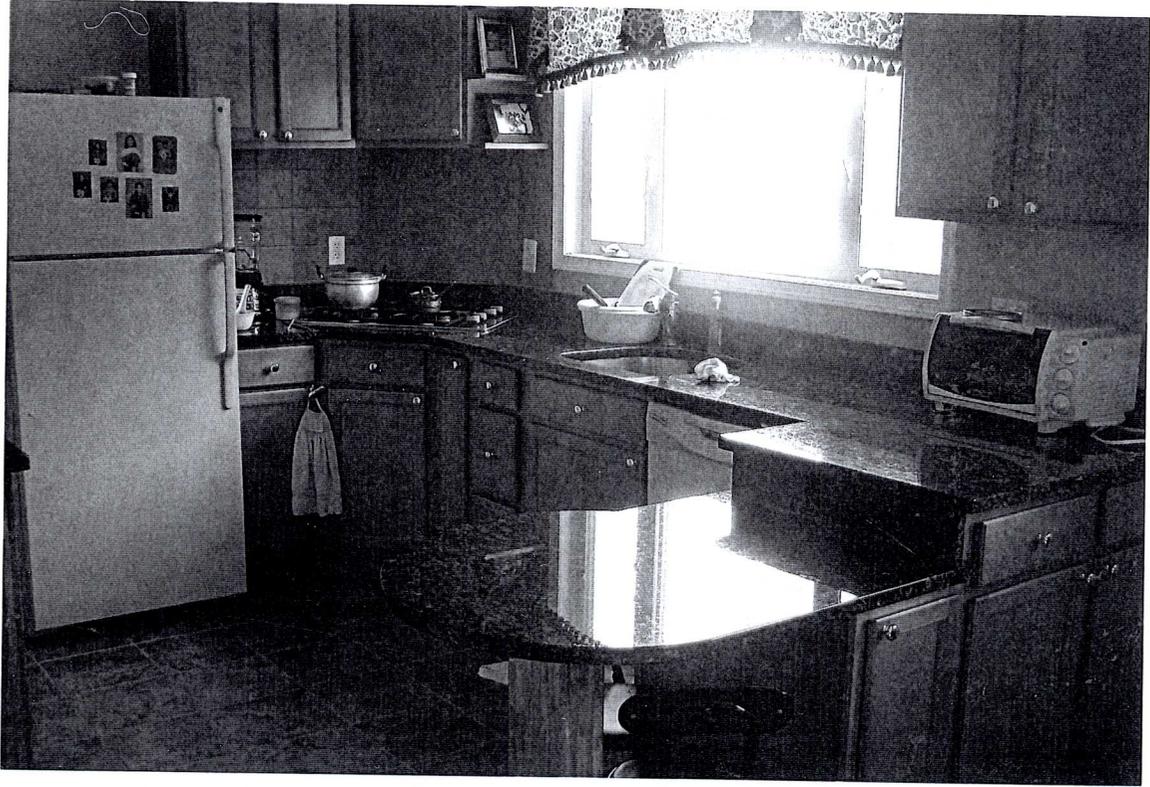
(H)



(J)



K



2nd Kitchen in Accessory Dwelling Unit

DESCRIPTION OF THE APPLICATION

The applicant seeks approval to permit an accessory dwelling unit to be located within an existing second floor addition above the garage of the existing single-family detached dwelling.

Size of Principal Dwelling: 2,778 square feet

Size of Accessory Dwelling Unit: 805 square feet (Upper level addition)

Lot Size: 11,054 square feet

LOCATION AND CHARACTER

Existing Site Description:

The subject property is located at 7006 Vancouver Road on the western side of Vancouver Road, north of its intersection with Springfield Village Drive and south of its intersection with Truro Court. The 11,054 square-foot lot is developed with a brick and vinyl, two-story, single-family, detached dwelling. In 2008, a building permit was issued for a second-story bedroom addition, the area above the garage that has been converted to an accessory dwelling unit and is the basis of this special permit request. The outdoor entrance to the accessory dwelling unit is located on the southern side of the dwelling. A concrete walkway extends from the driveway to the entrance of the accessory dwelling unit. Vehicular access to the site is provided via a concrete driveway, approximately 35 feet in length, from Vancouver Road along the southern side of the dwelling and terminates at the existing one-car, attached garage at the front of the dwelling. A second-floor wood deck is attached to the upper-level addition and another deck is attached to the rear of the principal dwelling. A chain-link fence is located along the perimeter of the side and rear property lot lines. The application property contains a significant amount of mature vegetation including a variety of deciduous trees, shrubs and foundation plantings along the sides and rear of the dwelling. The rear yard has a steep downward slope from the rear of the dwelling to the rear property line.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single-Family Dwellings	R-2 (Cluster)	Residential, 2-3 du/ac
South	Single-Family Dwellings	R-2; R-2 (Cluster)	Residential, 2-3 du/ac
East	Single-Family Dwellings	R-2 (Cluster)	Residential, 2-3 du/ac

Direction	Use	Zoning	Plan
West	Single-Family Dwellings	R-2; R-2 (Cluster)	Residential, 2-3 du/ac

BACKGROUND

Site History

County records indicate that the original dwelling was constructed in 1967 with side yards of 12 feet. Building permit history indicates that a building permit was issued in 2008 to replace a carport and permit construction of an attached garage and an upper level bedroom with a side yard of 12 feet. Copies of the aforementioned building permits are contained in Appendix 4 of this report. There is no history of building permits being issued for the wood decks at the rear of the dwelling.

In July 2010, the site was inspected by members of the Department of Code Compliance. Subsequently, a Notice of Violation (NOV) was issued for having multiple dwelling units on the site in violation of Sect. 2-501 of the Fairfax County Zoning Ordinance (see Appendix 5).

Following adoption of the current Ordinance, the BZA has not heard any similar special permit applications in the vicinity of the application parcel.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area III; Pohick Planning District

Planning Sector: P2 Main Branch Community Planning Sector

Plan Map: Residential, 2-3 du/ac

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: House Location Survey, Lot 168, Section 2, West Springfield Village

Prepared By: Gary L. Smith, Certified Land Surveyor

Dated: August 9, 2010

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit. The proposed unit will be located within the second floor addition above the garage of the principal dwelling. The proposed unit will contain one bedroom, one bathroom, a living area, and a kitchen area. County records indicate that the above grade living area of the dwelling totals 2,778 square feet, of which 805 square feet or 28.9% of the primary dwelling will be utilized for the accessory unit. Parking is provided in the existing driveway which, as previously stated, measures approximately 35 feet in length and can accommodate two vehicles; a third vehicle can be parked in the attached one-car garage. Sect. 8-918.5 (B) states that one of the dwelling units (either the principal unit or the accessory dwelling unit) shall be occupied by a person or persons who qualifies as elderly (55 years or over) and/or a person permanently or totally disabled. Given that the accessory dwelling unit, which is located on the second floor of the house, is not designed with handicap accessibility, the applicant can not rent the unit to a permanently or totally disabled individual unless the access is brought into compliance with Americans with Disabilities Act (ADA) regulations. The accessory dwelling unit is currently occupied by the applicant's mother-in-law whom the applicant has stated is 77 years of age. Staff has included a development condition requiring the accessory dwelling unit to only be occupied by someone 55 years of age or older until the applicant himself reaches age 55.

Land Use Analysis

The Comprehensive Plan recommends residential uses with a density of 2-3 dwelling units per acre. In staff's opinion, the proposed accessory dwelling unit is in harmony with the Comprehensive Plan recommendations for this site, and there are no design or compatibility issues posed by the use proposed on this site.

ZONING ORDINANCE PROVISIONS

The existing single-family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-2 (Cluster) Zoning District.

Special Permit Requirements

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, copies of which are included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Staff therefore recommends approval of SP 2010-SP-064, subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions with Attachment 1
2. Affidavit
3. Statement of Justification
4. Previously Approved Building Permits
5. Notice of Violation
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2010-SP-064****January 19, 2011**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-SP-064 located at Tax Map 89-2 ((7)) 168, to permit an accessory dwelling unit under Section 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval for the accessory dwelling unit is granted to the applicant only, Alan Diamond and/or Trang N. Diamond, and is not transferable without further action of this Board, and is for the location indicated on the application, 7006 Vancouver Road (11,054 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the house location survey plat, prepared by Gary L. Smith, Certified Land Surveyor, dated August 9, 2010, and approved with this application, as qualified by these development conditions.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled. Until the applicant/owner reaches age 55, the accessory dwelling unit shall only be occupied by a person 55 years of age or older.
6. All applicable permits and final inspections for the kitchen located within the accessory dwelling unit shall be obtained within 90 days of this special permit approval.
7. If required, all applicable permits and final inspections for any other structures such as the wood decks shall be obtained within 180 days of this special permit approval.
8. The accessory dwelling unit shall contain a maximum of 805 square feet, including a maximum of one bedroom, one bathroom and one kitchen.

9. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
10. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory unit shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
12. Parking shall be provided as shown on the special permit plat.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, 180 days after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): SP 2010-SP-064
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 18, 2010
(enter date affidavit is notarized)

I, Alan Diamond, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) applicant 109582
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Alan D. Diamond	7006 Vancouver Rd. Springfield, VA 22152	Applicant/Owner
Trang N. Diamond [Ⓢ]	7006 Vancouver Rd. Springfield, VA 22152	Owner

[Ⓢ] also known of record as Trang D. Nguyen

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2010-SP-064
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 18, 2010
(enter date affidavit is notarized)

109582

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 18, 2010
(enter date affidavit is notarized)

109582

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2010-SP-064
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 18, 2010
(enter date affidavit is notarized)

109582

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No(s): SP 2010-SP-064
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 18, 2010
(enter date affidavit is notarized)

109582

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

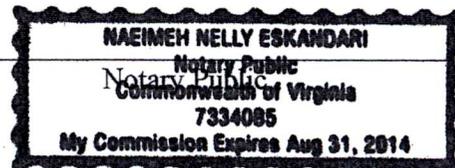
WITNESS the following signature:

(check one) Applicant Applicant's Authorized Agent

Alen D. Diamond Applicant/Owner
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 18 day of Aug, 2010, in the State/Comm. of virginia, County/City of Fairfax.

My commission expires: Aug 31, 2014



SPECIAL PERMIT STATEMENT OF JUSTIFICATIONS (revised)

(5.00) I request permission for an accessory dwelling unit having a second kitchen in my house at 7006 Vancouver Road, Springfield, VA 22152. The kitchen has already been installed, but without special permit. The kitchen is present in an addition built to the house, the addition (without kitchen) having been gone through normal permit/approval procedures in Fairfax County. The addition is **attached** to the house. The accessory dwelling unit is for my mother-in-law, Ms. Khanh Nguyen, age 74, who resides in the addition to the house. The addition with second kitchen is on the second level of the house above the garage and is convenient since her bedroom, which is the only bedroom in the addition, is also on the second level. The first kitchen, which is used by my wife and me, is on the ground level of the house. Ms. Nguyen cooks for herself and it would be difficult for her to not only share the first kitchen with my wife, but also to travel up and down the stairs to do her cooking.

Square footage of living area:

Existing house: 2,848 square feet

Accessory Dwelling unit: 755 square feet

Percentage of Accessory Dwelling unit with respect to existing house: 27%

Percentage of Accessory Dwelling unit with respect to overall living space¹: 21%

(5.01). Type of operations: The kitchen will be used by my mother-in-law for her personal cooking needs.

(5.02). Hours of operation: There are no hours of operation.

(5.03). Estimated number of patrons. My mother-in-law will generally be cooking for

¹ Overall living space is the living space of the existing house plus the accessory dwelling unit

Zoning Evaluation Division

OCT 19 2010

RECEIVED
Department of Planning & Zoning

herself.

(5.04). Proposed number of employees: This is not applicable as there is no business here.

(5.05). Estimate of traffic impact: There is no traffic impact. My mother-in-law does not drive a car.

(5.06). Vicinity or general area to be served by the use: The kitchen is located in the addition to the house on the second level and will be used by my mother-in-law.

(5.07). Description of building facade and architecture of proposed new building or additions: The existing house as well as the addition to the house where the accessory dwelling is located are part **brick** and part **white vinyl siding**.

(5.08). Hazardous or toxic substances: None.

(5.09). Statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification: Since the accessory dwelling unit with second kitchen is for an elderly person - my mother-in-law, age 74 - the kitchen will be in conformance with ordinances.

MAP REFERENCE SHEET NO. 89-2 PROPERTY IDENTIFICATION NO. D-2539

FORM ZA

SEWER

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR CERTIFICATE OF OCCUPANCY

FOR USE IN CONNECTION WITH A NEW BUILDING OR FOR CHANGE IN THE
EXTERIOR OUTLINE OF AN EXISTING BUILDING

(WRITE WITH INK)

DATE 12-10-65

Name of Proposed Occupant or Trade Name

Applicant Richmarr Const. Co

Address 7006 ^{Vancouver Rd} Springfield Village Drive

Lot number 168 Block _____ Section 2

Subdivision or

Acreage Description West Springfield Vallage

To be used as one family dwelling

Last used as new

Non-Conforming Use _____

Material of Building _____

No. of stories high _____

Which floor do you propose to use: _____

Owner of Building (or agent) _____

Address _____

TO BE FILLED IN BY CLERK	
ZONE	<u>R-17 Cluster</u>
HEIGHT	_____
FIRE ZONE	_____
BUILDING PERMIT NO.	<u>P-32215</u>
DATE	<u>12-10-65</u> <u>lpt</u>
INITIALS	
<u>Above</u>	

This Application Constitutes A Written Request For a Certificate of Occupancy Upon Compliance By the Applicant With Provisions of Section 20-2.4.4 of the Code.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to erect or maintain any kind of signs.

Zoning Section	
No.	_____
Issued	_____
Date	_____

Signature of Proposed Occupant or

Applicant RICHMARR CONST. CORP.
1725 DE SALES ST., N. W.

Address WASH. 6, D.C. 393-8030

Telephone number _____

132

12-13-66

B

28

BUILDING PERMIT APPLICATION

FAIRFAX COUNTY GOVERNMENT
 PERMIT APPLICATION CENTER
 12055 Government Center Parkway, 2nd Floor
 Fairfax, Virginia 22035-5504
 Telephone: 703-222-0801
 Web site: <http://www.fairfaxcounty.gov/dpwes>

PERMIT # 871011

FOR INSPECTIONS CALL 703-222-0455 (see back for more information)
 OR VISIT US ON THE WEB AT
http://www.fairfaxcounty.gov/isisnet/inspection_sched.asp

FILL IN ALL APPROPRIATE INFORMATION IN THIS COLUMN
(PLEASE PRINT OR TYPE)

JOB LOCATION
 ADDRESS 7006 VANCOUVER RD. SPRINGFIELD
 LOT # 188 BUILDING 705 VANCOUVER
 FLOOR 2 SUITE _____
 SUBDIVISION 4055 EMERY VILLAGE
 TENANT'S NAME AT&T
 EMAIL _____
 CONTACT ID _____

OWNER INFORMATION OWNER TENANT
 NAME AT&T
 ADDRESS 7006 VANCOUVER RD. SPRINGFIELD
 CITY VA STATE VA ZIP 22152
 TELEPHONE 703-413-5673
 EMAIL _____
 CONTACT ID _____

CONTRACTOR INFORMATION SAME AS OWNER
 CONTRACTORS MUST PROVIDE THE FOLLOWING:
 COMPANY NAME _____
 ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 TELEPHONE _____
 EMAIL _____
 STATE CONTRACTORS LICENSE # _____
 COUNTY BPOL # _____
 CONTACT ID _____

APPLICANT
 NAME MARC BONAFE
 ADDRESS 7006 VANCOUVER RD.
 CITY VA STATE VA ZIP 22152
 TELEPHONE (571) 233-4290
 EMAIL _____
 CONTACT ID _____

DESCRIPTION OF WORK
ADDITIONAL WORK
REPAIRS TO GARAGE
REAR PORCH

HOUSE TYPE Single
 ESTIMATED COST OF CONSTRUCTION 70,000
 USE GROUP OF BUILDING _____
 TYPE OF CONSTRUCTION ADDITION

DESIGNATED MECHANICS' LIEN AGENT
 (Residential Construction Only)
 NAME MARC BONAFE
 ADDRESS 7006 VANCOUVER RD.
SPRINGFIELD VA 22152
 NONE DESIGNATED PHONE _____

DO NOT WRITE IN GRAY SPACES - COUNTY USE ONLY

PLAN # 206-1008
 TAX MAP # 0812 07 1108

ROUTING	DATE	APPROVED BY
ENCLOSING		
ZONING	<u>6/11/08</u>	<u>MNC</u>
SITE PERMITS	<u>6/11/08</u>	<u>MNC</u>
HEALTH DEPT		
BUILDING REVIEW	<u>7/3/08</u>	<u>MNC</u>
SANITATION		
FIRE MARSHAL		
ASBESTOS		
PROFFERS		

FEE	\$
FILING FEE	\$
AMOUNT DUE	\$ <u>137.00</u>

BUILDING PLAN REVIEW
 REVIEWER MNC # OF HOURS _____
 REVISION FEES \$ _____
 FIRE MARSHAL FEES \$ _____
 FIXTURE UNITS _____ PLAN LOC: J R

APPROVED FOR ISSUANCE OF BUILDING PERMIT
 (LOG OUT)
 BY [Signature] DATE 7/3/08

ZONING REVIEW
 USE SFD HISTORICAL DISTRICT R-2C
 ZONING DISTRICT _____
 ZONING CASE # _____
 GROSS FLOOR AREA OF TENANT SPACE _____

YARDS:	GARAGE	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
FRONT <u>nc</u>	OPTIONS	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
FRONT <u>nc</u>	REMARKS	<u>Build</u>		
L SIDE <u>12</u>		<u>35 x 23</u>		
R SIDE <u>nc</u>		<u>addn por</u>		
REAR <u>62</u>		<u>Plan 5</u>		

REMARKS
Plot
reworked
18' trail
Remo
oil
crab part

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Signature of Owner or Agent [Signature] Date 6-17-08
 Printed Name and Title MARC BONAFE
 (Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

NOTARIZATION (if required)
 State (or territory or district) of _____
 County (or city) of _____, to wit: I, _____, a _____
 Notary Public in the State and County aforesaid, do certify that _____
 whose name is signed to this application, appeared before me in the State and County aforesaid and executed this affidavit.
 Given under my hand this _____ day of _____, 20____.
 My commission expires the _____ day of _____, 20____.

(Notary Signature)



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

NOTICE OF VIOLATION

DATE OF ISSUANCE: January 14, 2011

SHERIFF'S LETTER

CASE#: 201004109 SR #: 62415

SERVE: **Alan D. Diamond**
Trang D. Nguyen
 7006 Vancouver Road
 Springfield, VA 22152-3350

LOCATION OF VIOLATION 7006 Vancouver Road
 Tax Map Ref : 89-2 ((7)) 168
 Zoning District: R-2

Dear Responsible Party:

An inspection of the above referenced property on July 26, 2010 revealed the following violation of the Fairfax County Zoning Ordinance:

§ 2-501 Excessive Dwelling Units:

The inspection revealed that a portion of your residence has been converted into a separate independent living facility which includes permanent provisions for living, sleeping, eating, cooking, and sanitation. On the date of inspection, your residence contained an accessory or second dwelling unit which had a second kitchen, bathroom, bedroom and living area used for sleeping.

For your information and review, a dwelling unit is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, and used or intended for use as a complete, independent living facility which

Department of Code Compliance
 12055 Government Center Parkway, Suite 1016
 Fairfax, VA 22035
 Phone 703-324-1300, Fax 703-324-9346
www.fairfaxcounty.gov

Alan D. Diamond
Trang D. Nguyen
January 14, 2011
Page 2

includes permanent provisions for living, sleeping, eating, cooking, and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, you are in violation of Sect. 2-501 of the Zoning Ordinance that states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building.

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the microwave, stove, sink, cabinets, countertops, refrigerator, and freezer or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

A follow-up inspection will be made at the expiration of this period. If you have failed to comply, with this notice, it may result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

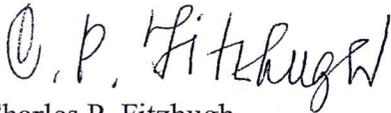
You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of

Alan D. Diamond
Trang D. Nguyen
January 14, 2011
Page 3

an application form, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party, and any other information you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1300 or (703)-324-1395.

Sincerely,



Charles P. Fitzhugh
Property Maintenance/Senior Zoning Inspector

CPF

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

- E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
- H. If applicable, the location of well and/or septic field.
- I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor

area of the accessory freestanding structure and the principal dwelling unit.

4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.
 - C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:

- (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.
7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.

11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.