



APPLICATION ACCEPTED: July 19, 2012
BOARD OF ZONING APPEALS: October 17, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 10, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-MA-041

MASON DISTRICT

APPLICANT AND OWNER: Maria A. Torres

SUBDIVISION: Lake Barcroft

STREET ADDRESS: 3706 Quaint Acre Circle, Falls Church, 22041

TAX MAP REFERENCE: 61-3 ((14)) 0206

LOT SIZE: 23,850 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit within an existing dwelling.

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-MA-041 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.

O:\vhorner\Special Permits\Torres\Torres Staff Report.doc

Rebecca Homer

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.

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.**

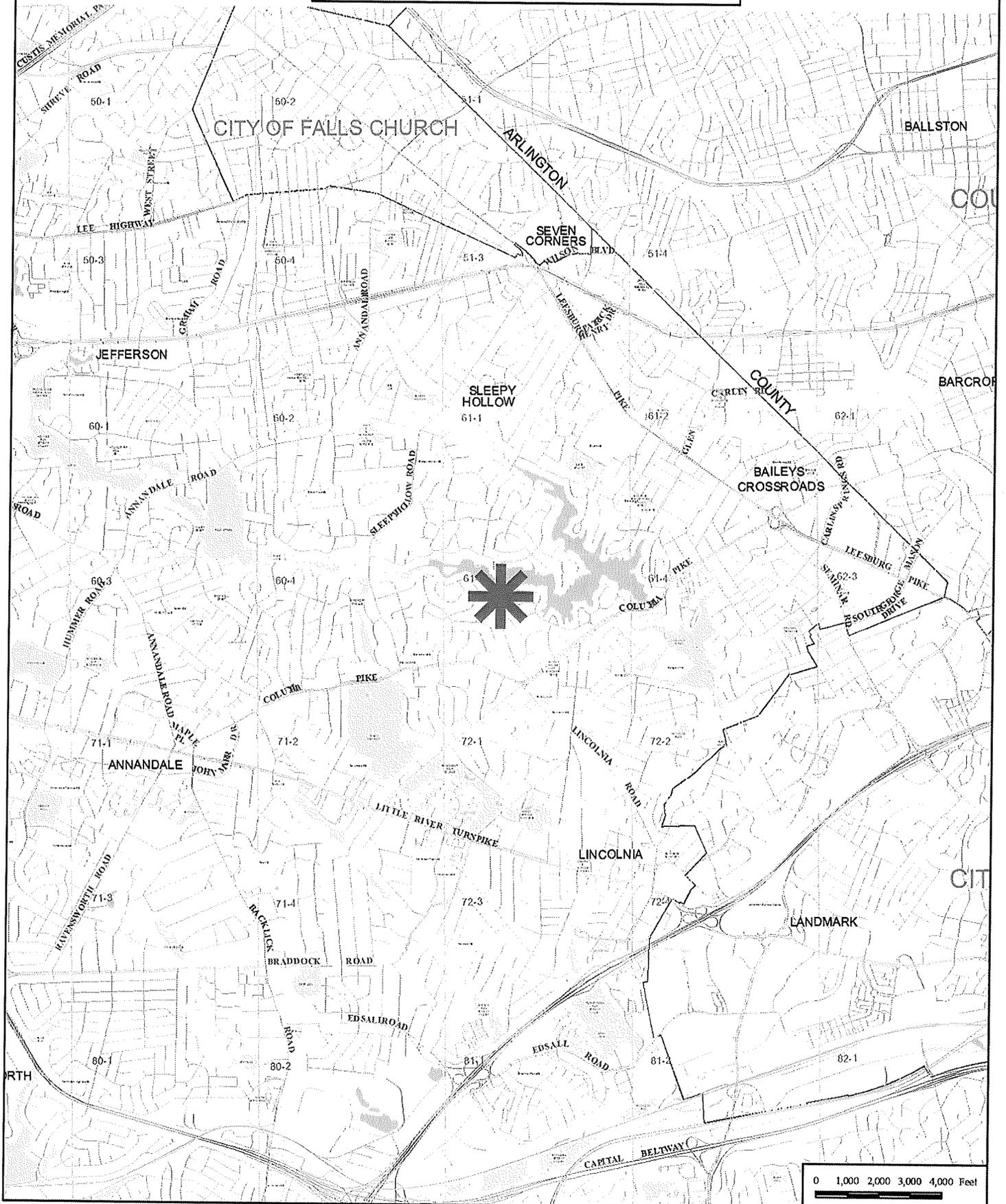


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-MA-041

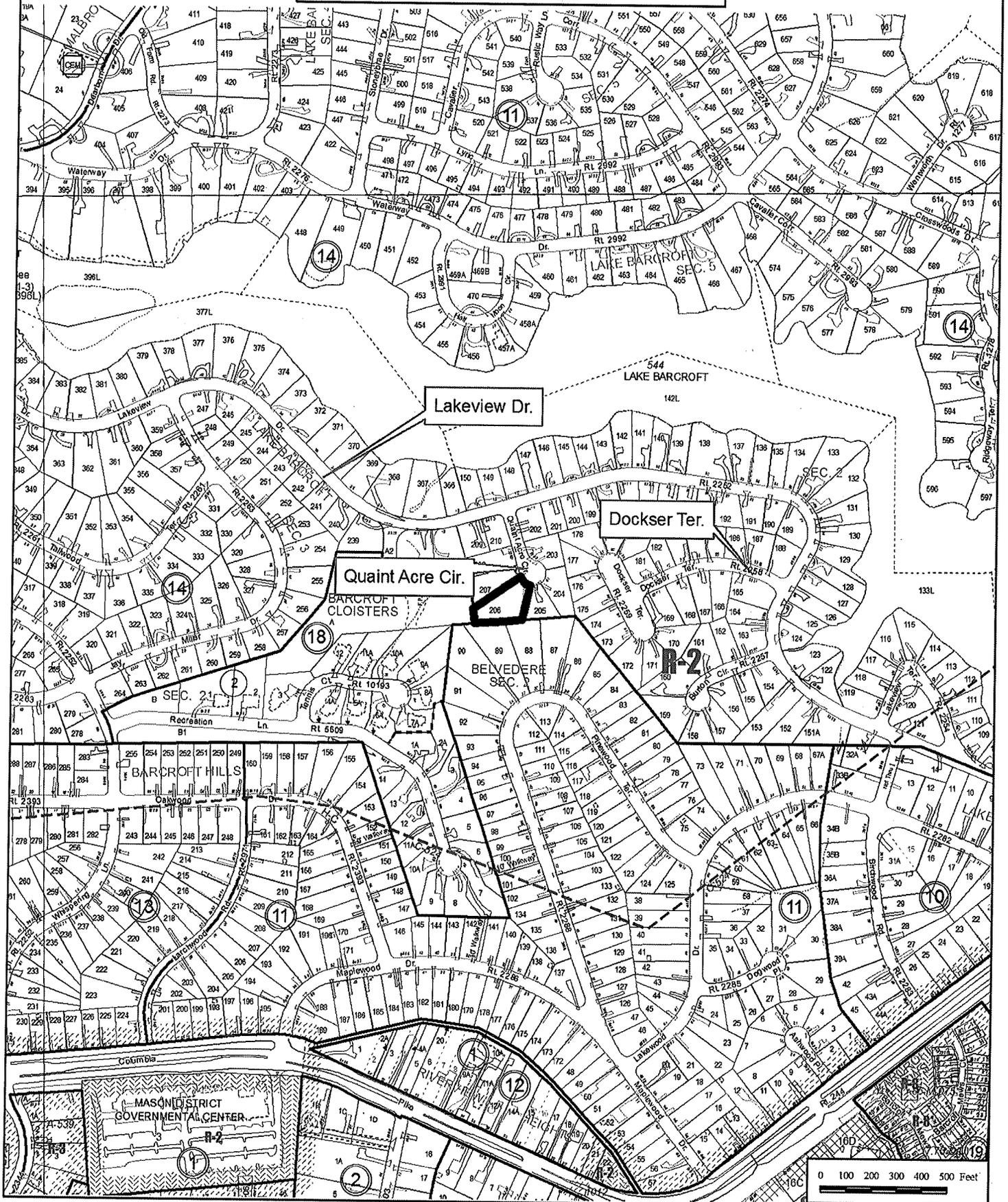
MARIA TORRES



Special Permit

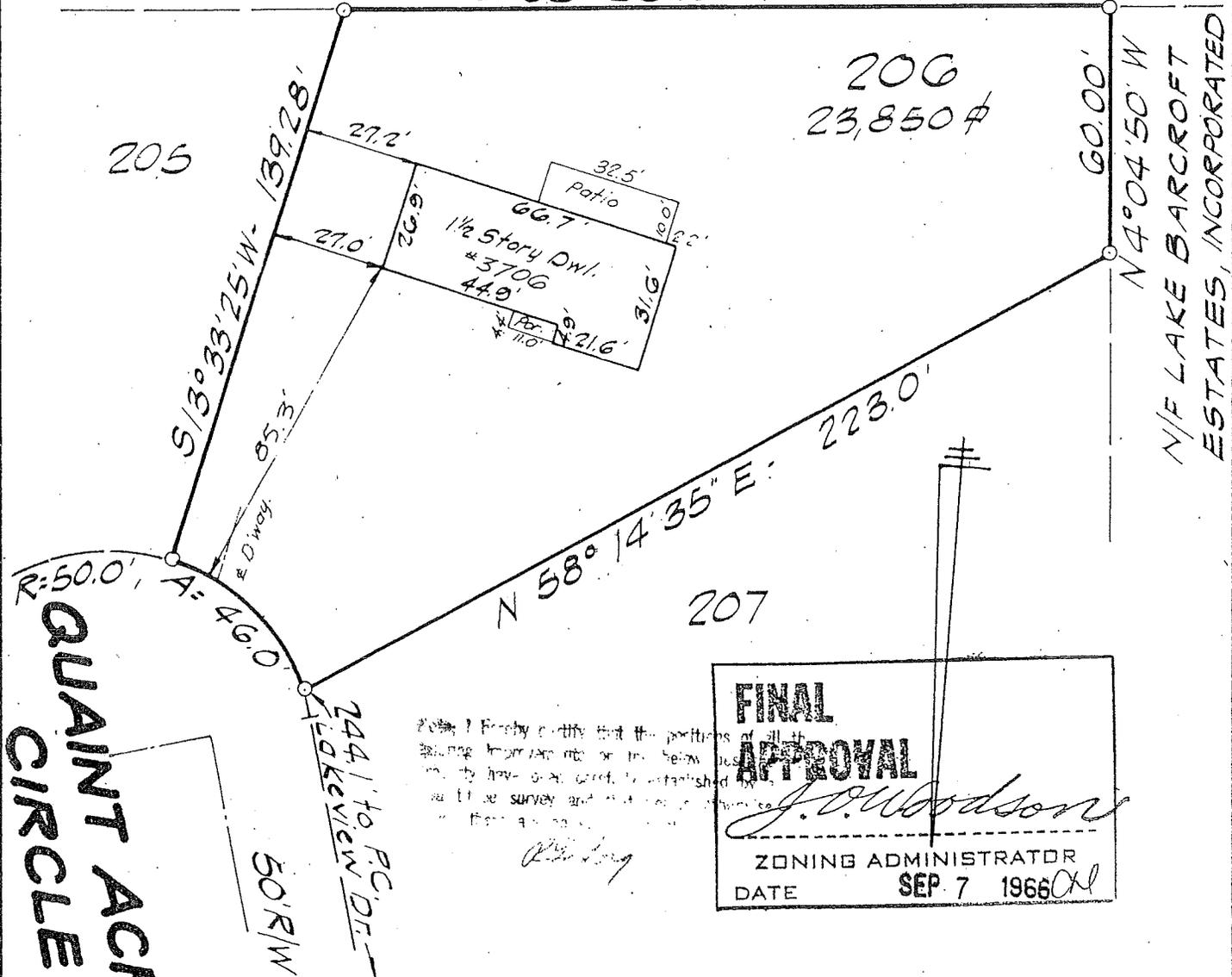
SP 2012-MA-041

MARIA TORRES



HOUSE LOCATION SURVEY

N/F GLENBROOK CORPORATION
 S 85° 55' 10" W 187.23'



FINAL APPROVAL
J. Woodson
 ZONING ADMINISTRATOR
 DATE SEP 7 1966

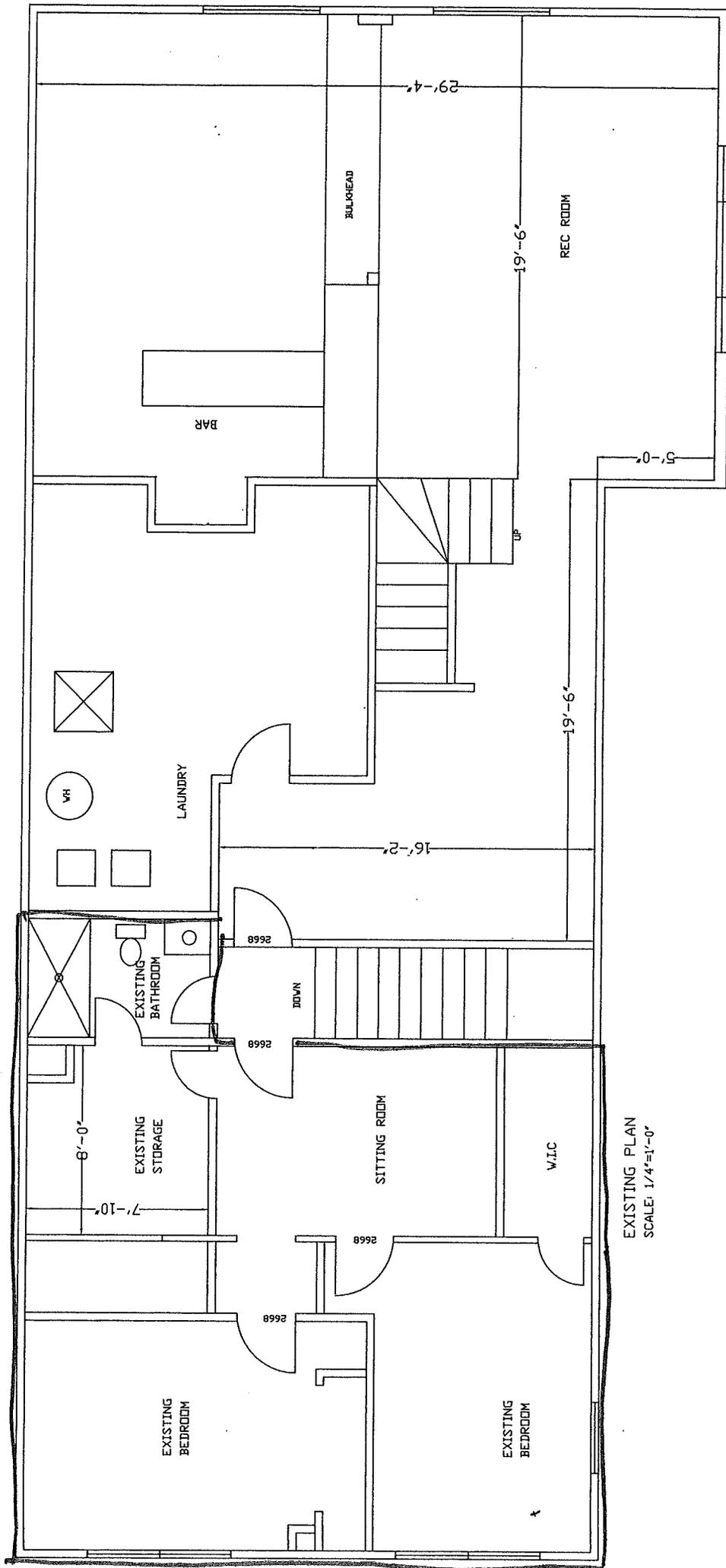
I hereby certify that the positions of all the bearings and distances on the above described lot have been correctly established by this survey and that the same are true to the best of my knowledge and belief.

QUAINT ACRE CIRCLE

LOT 206, SECTION 2
LAKE BARCROFT
 MASON MAGIS, DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 RICHARD W. LONG
 Certified Land Surveyor
 Fairfax Virginia

CERTIFIED CORRECT: *Richard W. Long* DATE: Mar. 1, 1965 SCALE: 1" = 40'

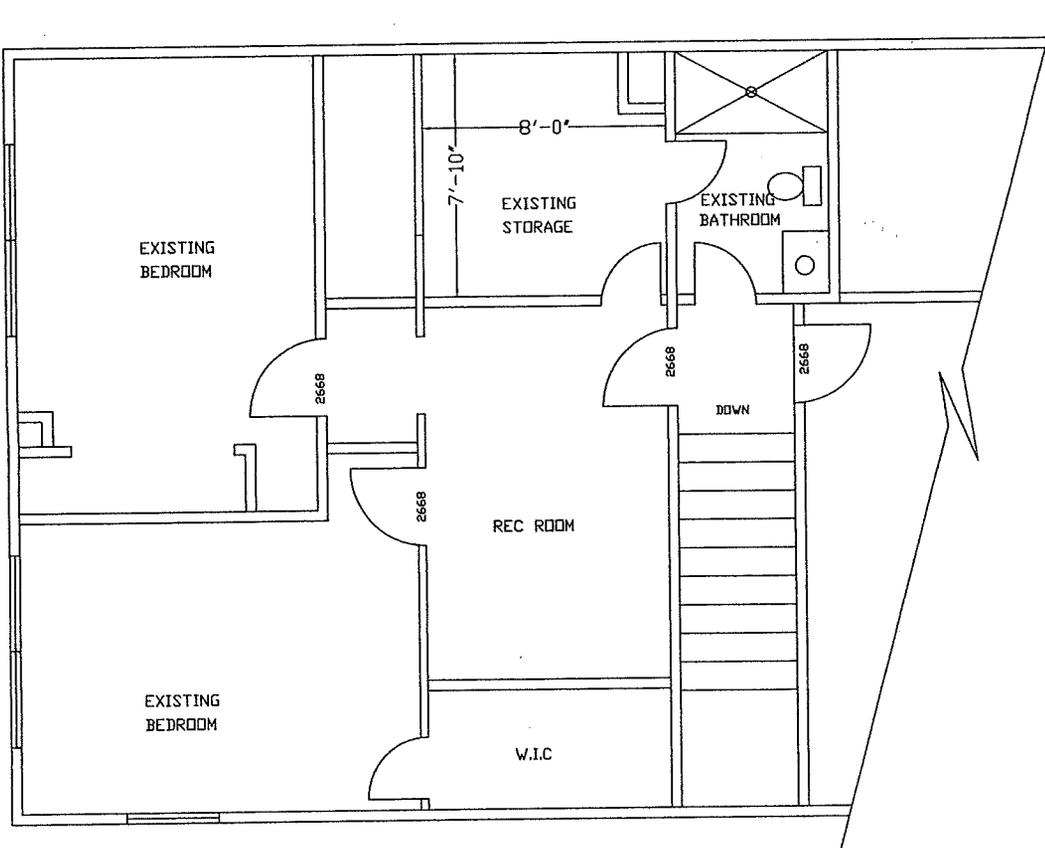
Full existing Basement View



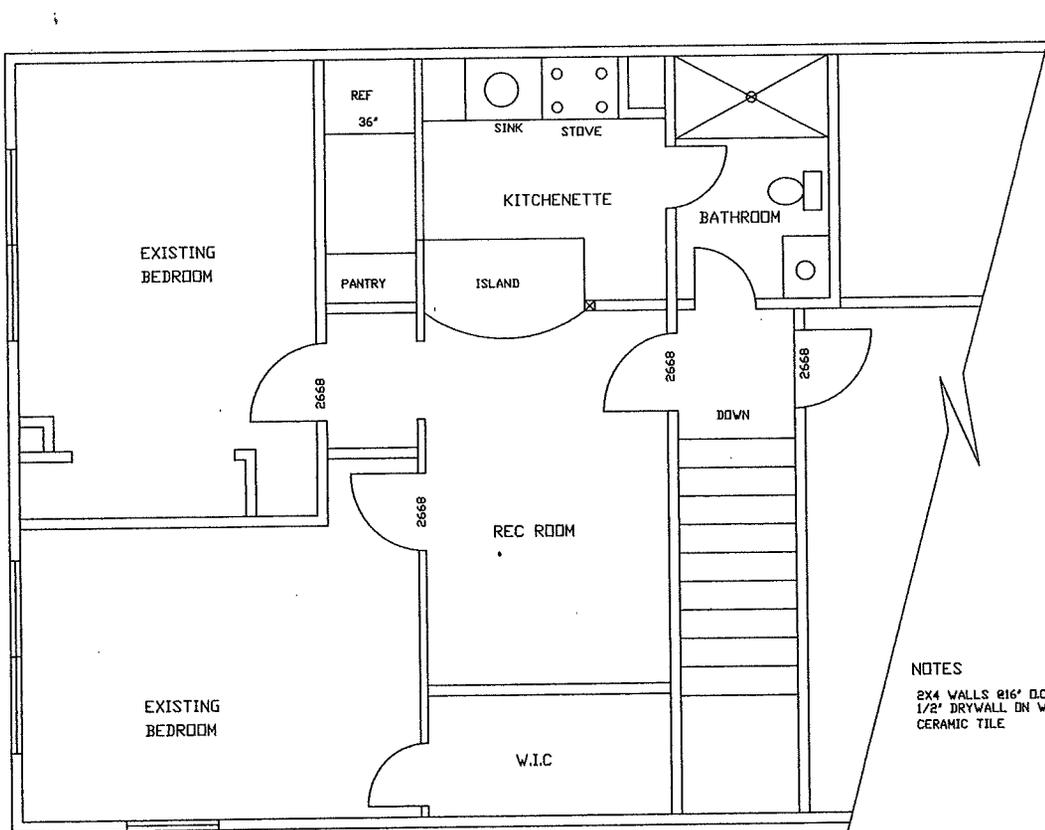
RECEIVED
Department of Planning
AUG 22 2011
Zoning Evaluation Division

EXISTING PLAN
SCALE: 1/4"=1'-0"

Partial View of Basement Area



EXISTING PLAN
SCALE: 1/4"=1'-0"



NOTES
2x4 WALLS @ 16" OC
1/2" DRYWALL ON WALLS/CEILING
CERAMIC TILE

TORRES RESIDENCE
3706 QUAINT ACRES CIR
FALLS CHURCH VA 22041

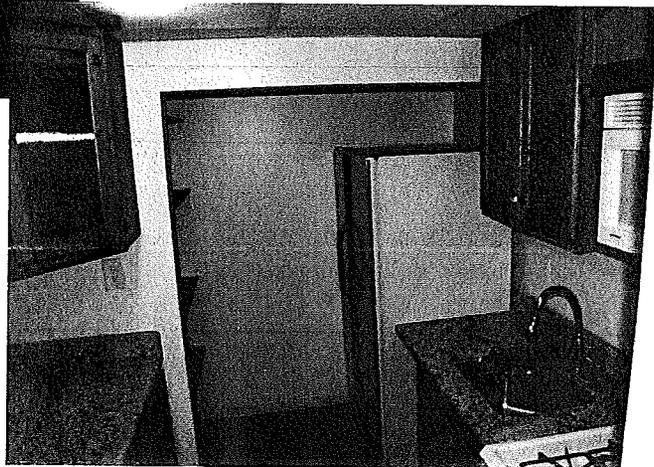
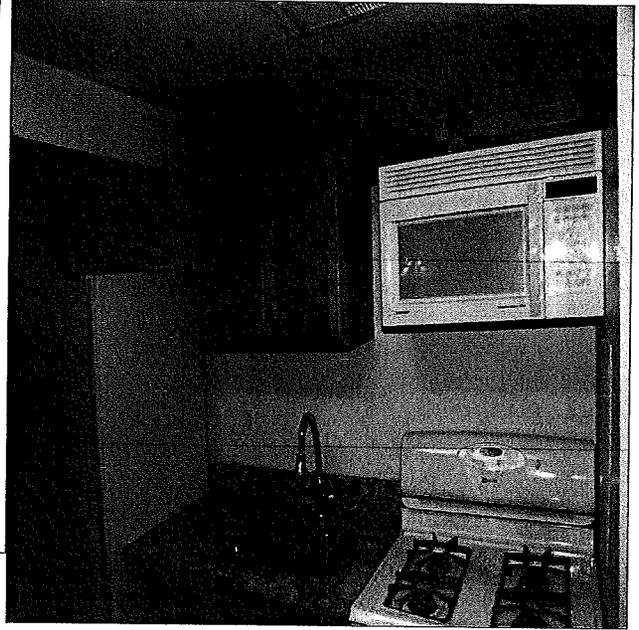
PROPOSED PLAN
SCALE: 1/4"=1'-0"

RECEIVED
Department of Planning & Zoning

AUG 22 2011

Zoning Evaluation Division

Different views of the Area



RECEIVED
Department of Planning & Zoning

AUG 22 2011

Zoning Evaluation Division

Front of the House Pictures

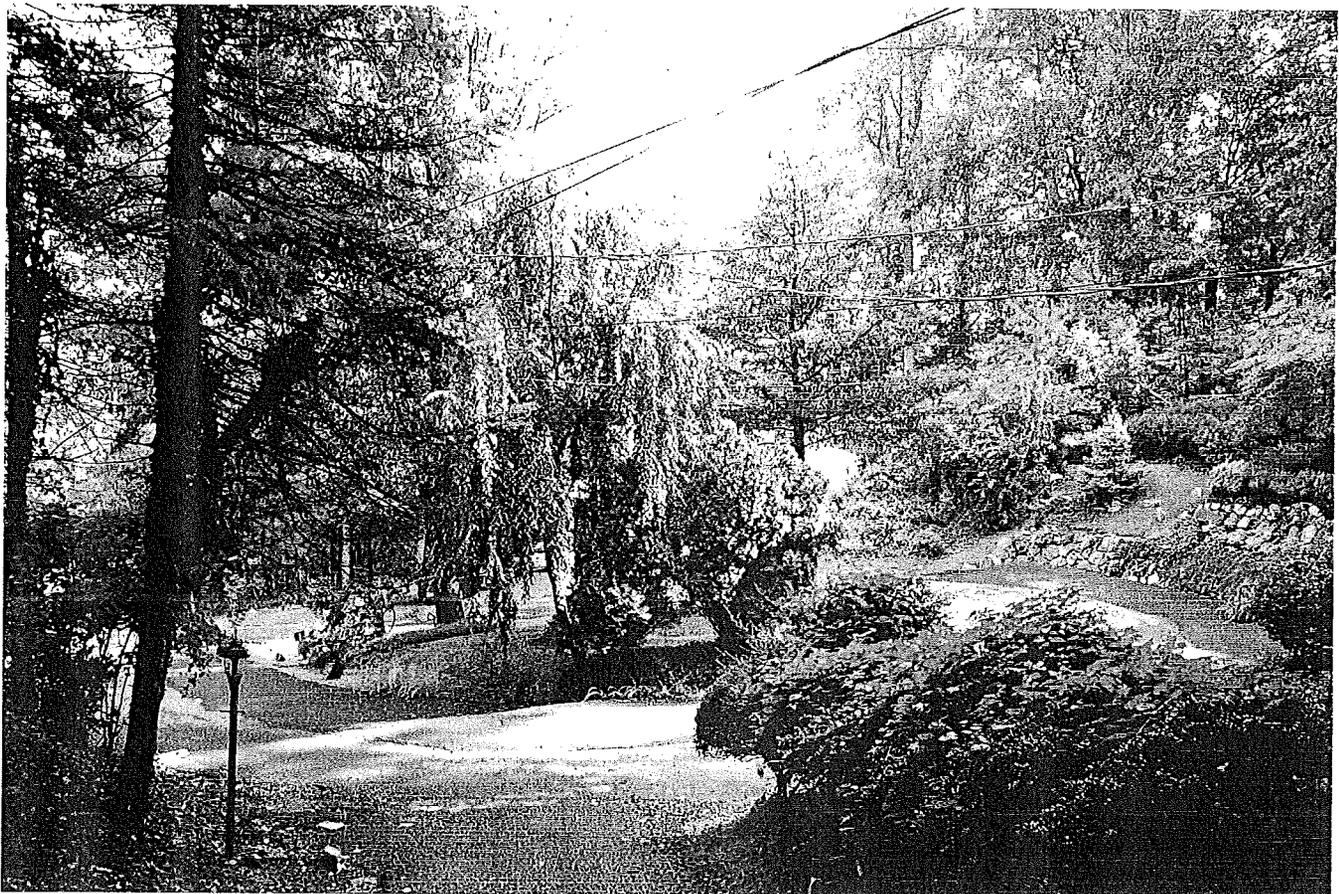




Front of the House Pictures



View from Front of the House







DESCRIPTION OF THE APPLICATION

Special Permit Request: To permit an accessory dwelling unit within an existing single family detached dwelling.

Size of Principal Dwelling: 1,914 square feet, above grade living*

Size of Accessory Dwelling Unit: 474 square feet (25%)

Lot Size: 23,850 square feet

*According to tax records.

LOCATION AND CHARACTER OF THE AREA

The application property is located in a single family neighborhood within the Lake Barcroft subdivision. The 23,850 square foot site is developed with a single family detached dwelling, built in 1965. An existing hard surfaced driveway is accessed from Quaint Acre Circle and terminates at an attached two-car garage. The garage is used for the storage of vehicles and there is space in the driveway for several additional vehicles. There is a sidewalk extending from the driveway to the front of the dwelling.

The accessory dwelling unit is accessed through a door to the garage. The access door enters directly into the main living and kitchen area of the accessory dwelling unit in the lower level of the dwelling.

The lot slopes sharply from the street to the entry of the dwelling. The lot continues to slope sharply up toward the rear of the lot. There are numerous existing plantings, shrubs and trees throughout the yard.

There is an existing 715 square foot concrete patio off the rear of the structure.

There is an existing shed that was determined to be in compliance with the Zoning Ordinance regulations during the applications acceptance process. The house location survey was accepted in lieu of an updated plat and does not show the accessory storage structure.

Surrounding Area Description

Direction	Use	Zoning
North	Single Family Detached Dwellings	R-2
South	Single Family Detached Dwellings	R-2
East	Single Family Detached Dwellings	R-2
West	Single Family Detached Dwellings	R-2

BACKGROUND

The area is zoned R-2 and developed with single family dwellings. The house was built in 1965. The applicant indicated they purchased the property with a partially finished basement and kitchen in the lower level and they later installed a stove/oven without a permit. Fairfax County received a complaint and investigated the property on April 20, 2012. A notice of violation was sent on April 28, 2012 and is included as Appendix 4.

Following the adoption of the current Ordinance, the BZA has heard the following special permit and variance applications in the vicinity of the application parcel:

- Special Permit SP 94-M-067 was approved March 8, 1995 for Tax Map 61-3 ((14)) 71, zoned R-2, at 6222 Lakeview Drive for an accessory dwelling unit and reduction to minimum yard requirements based on error in building location to permit stairs to remain 8.8 feet from side lot line.
- Special Permit SP 2008-MA-097 was approved April 14, 2009 for Tax Map 61-3 ((13)) 241, zoned R-2, at 3811 Whispering Lane for an accessory dwelling unit.

ANALYSIS

Special Permit Plat: Attached at front of report

Title of SP Plat: House Location Survey, Lot 206, Section 2, Lake Barcroft

Prepared By: Richard W. Long, Certified Land Surveyor

Dated: March 1, 1965 as certified by Richard W. Long, Land Surveyor.

Proposed Use

The property owner proposes to establish an accessory dwelling unit in the lower level of the existing single family detached dwelling. A floor plan included at the front of the report shows how the space will be used. The existing dwelling consists of approximately 1,914 square feet of above grade living. The proposed accessory dwelling unit is 474 square feet, or 25% of the Gross Floor Area (GFA) of the structure. As shown on the floor plan, the unit includes a living room, a bathroom, two bedrooms and a kitchen. The applicant indicates the requested accessory dwelling unit is for her elderly father, who is over the age of 55, and his caretaker, which is the applicant's cousin. The applicant is also over the age of 55. The applicant's father does not drive, however the caretaker does drive.

During the site visit staff observed two children living in one of the bedrooms. The applicant indicated that the children would be moving up to the upper level of the dwelling. The applicant indicated that her father was presently in the hospital. Staff indicated that the maximum number of occupants in the accessory dwelling unit is two.

The site can accommodate up to two vehicles within the existing garage and at least one in the driveway. There are no proposed exterior site modifications with this application.

ZONING ORDINANCE PROVISIONS

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

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (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, a copy of which is included in Appendix 5. 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. Therefore staff recommends approval of SP 2012-MA-041 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. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**October 10, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-MA-041 located at Tax Map 61-3 ((14)) 0206 to permit an accessory dwelling unit under Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

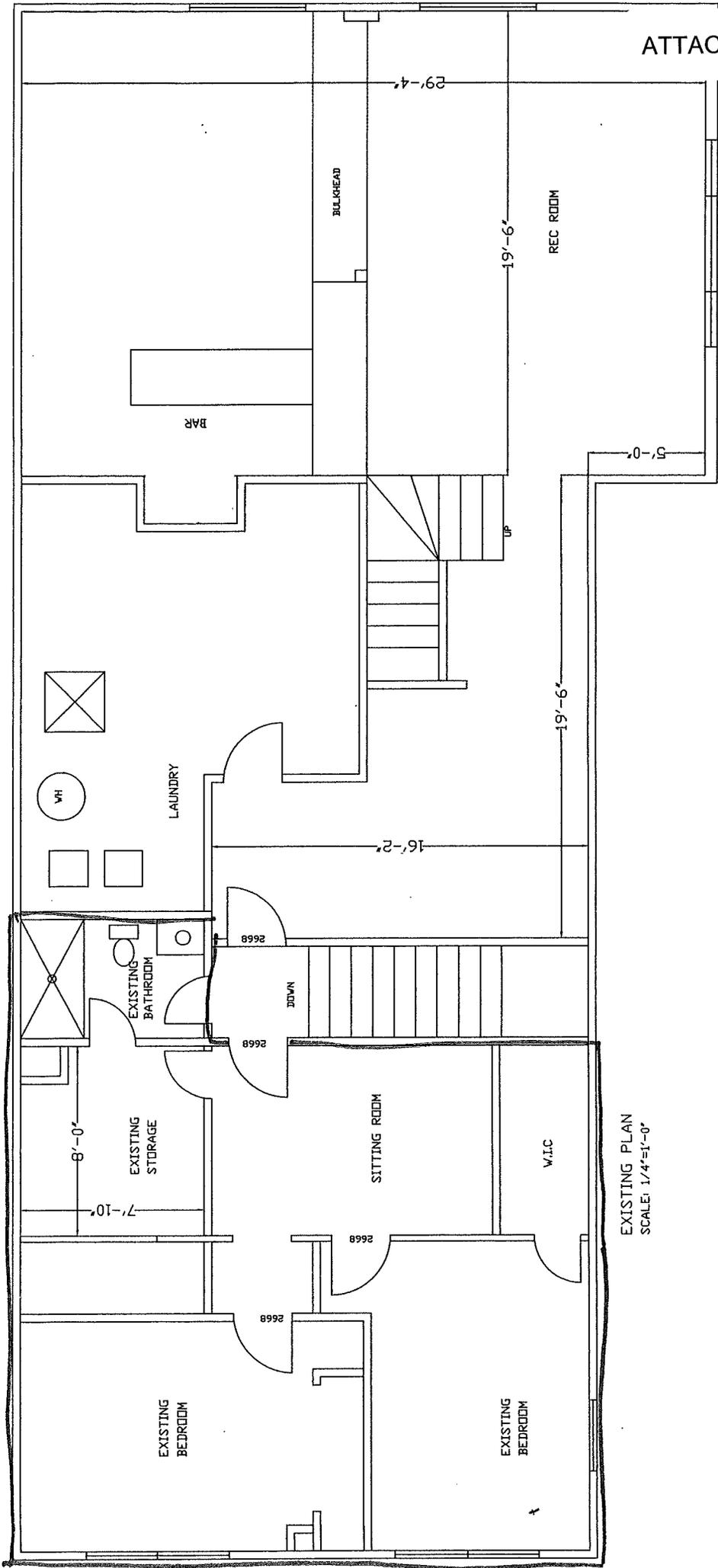
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant and title owner only, Maria A. Torres, and is not transferable without further action of this Board, and is for the location indicated on the application, 3706 Quaint Acre Circle, (23,850 square feet), and is not transferable to other land.
3. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupants 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.
5. The accessory dwelling unit shall contain a maximum of approximately 474 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
6. The accessory dwelling unit shall contain a maximum of two bedrooms for a maximum of two occupants.
7. All applicable trade permits and final inspections shall be obtained for the kitchen components of the accessory dwelling unit within 120 days of approval of this special permit.
8. 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.

9. 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.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling 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.
11. All parking shall be provided on site 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.

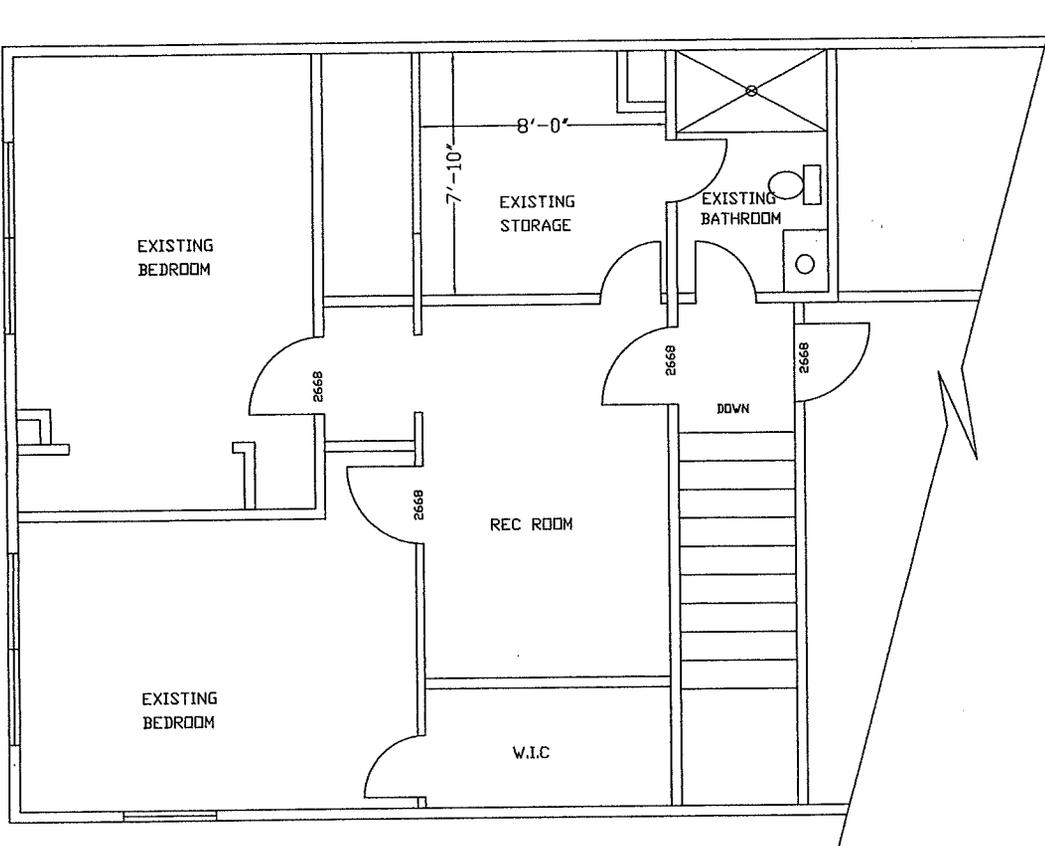
Full existing Basement View

RECEIVED
Department of Planning
AUG 22 2011
Zoning Evaluation Division

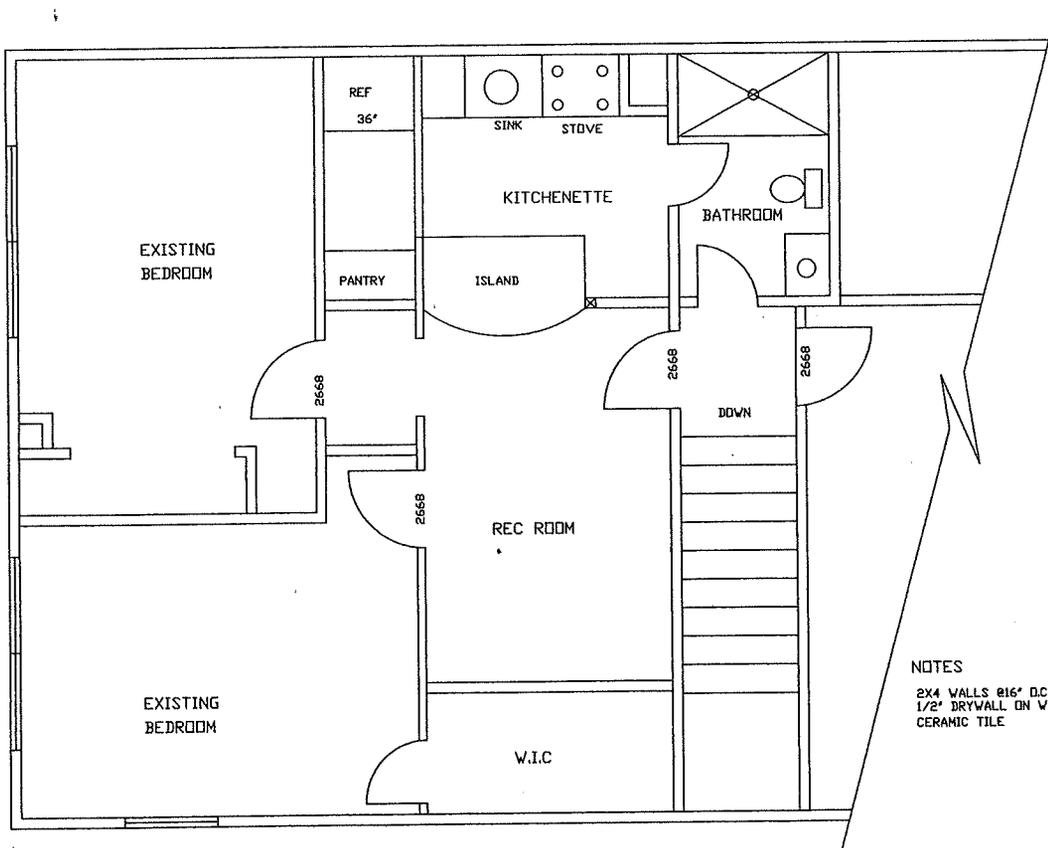


EXISTING PLAN
SCALE: 1/4"=1'-0"

Partial View of Basement Area



EXISTING PLAN
SCALE: 1/4"=1'-0"



PROPOSED PLAN
SCALE: 1/4"=1'-0"

TORRES RESIDENCE
3706 QUAIN ACRES CIR
FALLS CHURCH VA 22041

NOTES
2X4 WALLS @16" OC
1/2" DRYWALL ON WALLS/CEILING
CERAMIC TILE

RECEIVED
Department of Planning & Zoning

AUG 22 2011

Zoning Evaluation Division

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/16/11
 (enter date affidavit is notarized)

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

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 113156

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)
MARIA A. TORRES, also known as MARIA TORRES-SMITH	3706 QUAIN T ACRES CIR. FALLS CHURCH, VA 22041	TITLE OWNER
HENRY BAYNES	3706 QUAIN T ACRES CIR. FALLS CHURCH, VA 22041	AGENT

(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): _____
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/16/11
(enter date affidavit is notarized)

113156

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)

N/A

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)

N/A

(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)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/16/11
(enter date affidavit is notarized)

113156

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**)

N/A

(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): _____
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/16/11
(enter date affidavit is notarized)

113156

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): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9/16/11
(enter date affidavit is notarized)

113156

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

[X] Applicant's Authorized Agent

Henry Byrnes
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16 day of Sept, 2011, in the State/Comm. of Virginia, County/City of Fairfax

[Signature]
Notary Public
By # 7088464

My commission expires: Dec 31, 2011

**ONASIS A. FUENTES
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DEC. 31, 2011**

Statement of Justification and Proposed Use

- 1) The plan is to convert an existing storage to a kitchenette.
- 2) The proposed use of the addition is to provide a secure place to take care of my elderly father who is living with me and needs constant assistance.
- 3) The propose development will provide shelter and accommodation for my Father and one assistant
- 4) The proposed use is reasonable necessary for my father health and safety. It will also be beneficial to my family stability and welfare.
- 5) The proposed plan affects only 2.60% of the existing living area
- 6) The proposed accessory dwelling complies with the standards for accessory Dwelling Units:
 - i) One accessory dwelling located within a detached single family unit
 - ii) The gross floor area of the accessory dwelling is less than 35% of the gross floor plan
 - iii) The accessory dwelling unit contains two bedrooms
 - iv) The unit will be occupy by a person older than 55 years of age
 - v) The accessory dwelling unit will be occupied by not more than 2 persons
 - vi) The proposed plan complies with applicable regulations for building, safety, health and sanitation.

RECEIVED
Department of Planning & Zoning

JUN 12 2012

Zoning Evaluation Division

RECEIVED
Department of Planning & Zoning

AUG 22 2011

Zoning Evaluation Division

Statement of Justification

Description of Project

We are filing for this special permit to allow us to alter our single family home, and primary residence, by adding a kitchen, a sink and wall cabinets in an area of the basement to accommodate my elderly father who needs special care.

Our property was built in 1965 with 3 bedrooms and 2 bathrooms on the main floor; and 2 bedrooms and 1 bathroom in the basement.

We are requesting permission to convert an existing storage area to add a kitchen with wall cabinets and a sink. These changes will allow my elderly father to have some privacy and receive the attention required by his special needs.

The architectural diagrams and plats of our proposed addition are included below in the design section of this document.

No hazardous or toxic substances or storage tanks are in existence and are not proposed by this permit application.

The following special permit justification questions do not apply to this request since this is a single family home:

Type of Operation

Hour of Operation

Estimated number of patrons

Proposed number of employees

Estimate of traffic impact

Vicinity or general area to serve

Description of building façade and architecture of proposed building (Internal addition only).



County of Fairfax, Virginia

Return Copy

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: April 28, 2011

SHERIFF'S LETTER

CASE #: 201101402 **SR#:** 69495

SERVE: Smith Maria Torres
3706 Quaint Acre Circle
Falls Church, Virginia 22041

LOCATION OF VIOLATION 3706 Quaint Acre Circle
Falls Church, Virginia 22041-1315
Tax Map #: 61-3 ((14)) 206
Zoning District: R-2

Dear Property Owner:

An inspection of the above referenced property on April 20, 2011 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Excessive Dwelling Units:

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Smith Maria Torres
April 28, 2011
Page 2

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 fifteen (15) 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 ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers 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
- Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; 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 the time period outlined in this Notice. Failure to comply with the Notice will 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 an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Smith Maria Torres
April 28, 2011
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1348 or 703-324-1300.

Sincerely,



Charles D. Forshee
Property Maintenance/Zoning Enforcement Inspector

CDF/

Received by
Date

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.

8-918 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.