

**TOWN OF SAN ANSELMO
PLANNING COMMISSION STAFF REPORT**

For the meeting of February 4, 2013

Agenda Item D-3

Owner and Property Address:

Ford Greene
711 Sir Francis Drake Boulevard
San Anselmo, CA

Request

Appeal of an administrative decision by the Interim Planning Director regarding the existence of a residential use in the lowest level of the building at 711 Sir Francis Drake Boulevard.¹ This is a continuation of the Planning Commission hearing of this item on November 19, 2012.

Recommendation

That the Planning Commission uphold the action of the Interim Planning Director, finding no proof in the materials that have been submitted by the property owner that establishes that the lowest level of the building at 711 Sir Francis Drake Boulevard was legally created as a residential unit and has continuously been used as a residential unit since becoming non-conforming.

Background

On November 19, 2012, the Planning Commission held a public hearing on the appeal by owner Ford Greene of the administrative decision by the Interim Planning Director regarding the

¹ Numerous addresses from 711 Sir Francis Drake Boulevard through 721 Sir Francis Drake Boulevard have been used for various tenants on the subject property over the years. For simplicity purposes, the property is collectively referred to as 711 Sir Francis Drake Boulevard in this staff report.

existence of a residential use in the lowest level of the building at 711 Sir Francis Drake Boulevard (please refer to the staff report and attachments from the November 19, 2012 Planning Commission meeting for a complete discussion of the background, analysis and recommendation regarding the appeal). At the November 19 meeting, an issue was raised by a Commissioner regarding the possible applicability of the state's historic building codes to the subject building. Because of the Commission's uncertainty with regard to Mr. Greene's appeal at the November 19, 2012 hearing (including the potential applicability of the state historic building codes to the subject structure), the Commission voted to continue the appeal to the February 4, 2013 meeting (please refer to the attached Planning Commission Minutes from the November 19, 2012 hearing).

Since the November 19, 2012 hearing, staff has researched the potential applicability of the state historic building codes and determined that whether or not they are applicable and may or may not provide some relief to the subject structure is a matter that is relevant at the time of submittal for a building permit, and is not relevant with regard to the Commission's action on the appeal. Therefore, it is appropriate for the Commission to take action on the appeal at this time and let the applicant deal with building codes (including state historic building codes) if and when a building permit is required.

Since the November 19 hearing, the applicant submitted materials with his use permit application (Item D-4 on tonight's agenda) on January 10, 2013 (please see attached letter), but staff believes that there has been no new evidence submitted that provides proof that the lowest level of the building at 711 Sir Francis Drake Boulevard was legally created as a legal second unit and has continuously been used as a second unit since becoming non-conforming. Marty Marcucci, retired Battalion Chief of the Ross Valley Fire Department, inspected the property in the late 1960s and has submitted a written declaration that there was no one living in the downstairs/basement unit at that time (Attachment 4). Although the declaration from Marty Marcucci came after the decision set forth in the August 14, 2012 letter from Interim Planning Director Diane Henderson to Fani Hansen that there is no proof that the lowest level of the building at 711 Sir Francis Drake Boulevard was legally created as a residential unit and has continuously been used as a residential unit since becoming non-conforming, in fact, the declaration provides further support for that determination. Finally, for all the years that Mr. Greene has owned the property, he has been paying taxes based on the two commercial units and two living units, but never has there been a third unit on the property tax bill. Therefore, staff's analysis and recommendation stand as that set forth in the staff report and attachments submitted to the Planning Commission for the November 19, 2012 hearing.

Conclusion

As set forth in the August 14, 2012 letter from Interim Planning Director Henderson to Mr. Greene's architect, Fani Hansen, while there is evidence that the building at 711 Sir Francis Drake Boulevard has historically had residential and commercial uses, there is no proof that the lowest level of that building was legally created as a residential unit and has continuously been used as a residential unit since becoming non-conforming. Therefore, if Mr. Greene wishes to occupy the lowest level of 711 Sir Francis Drake Boulevard as a residence, it is necessary for him to obtain a conditional use permit for residential use in the C-L zoning district from the Planning Commission. Mr. Greene has made application for such use, which will be

subsequently considered by the Planning Commission, depending on the Commission's action on this appeal.

Prepared By:

Diane Henderson
Interim Director of Planning

Attachments:

1. Staff Report to the Planning Commission with attachments, November 19, 2012
2. Excerpt from Planning Commission Minutes, November 19, 2012
3. Letter from Applicant, received January 10, 2013
4. Declaration of Marty Marcucci, January 30, 2013

S:\PLANNING\APPLICATIONS AND ENTITLEMENTS\Streets P-T\SIR FRANCIS DRAKE BLVD PROJECTS\711 Sir Francis Drake Blvd\Staff Reports\Appeal\711 SFD PC Draft Feb 4.doc