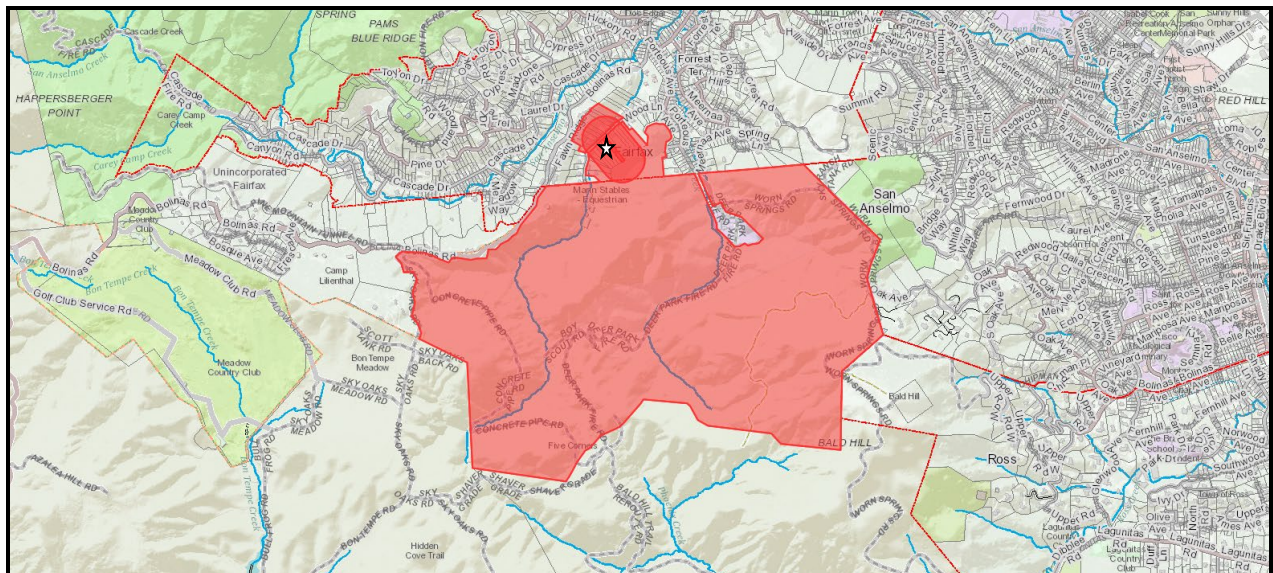


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Planning Commission
DATE: July 18, 2024
FROM: Linda Neal, Principal Planner
LOCATION: 85 Wood Lane; Assessor's Parcel No. 002-062-04
ZONING: RS-6 Residential Single-family Zone, High Density
PROJECT: Addition expanding a single-family residence and attaching to a reconstructed/relocated garage
ACTION: Conditional Use Permit, Tree Removal Permit, and Combined Side-yard Setback Variance; Application # 24-08
APPLICANT: Jonathan Livingston
OWNER: Renu Malhotra
CEQA STATUS: Categorically exempt, § 15301(e)



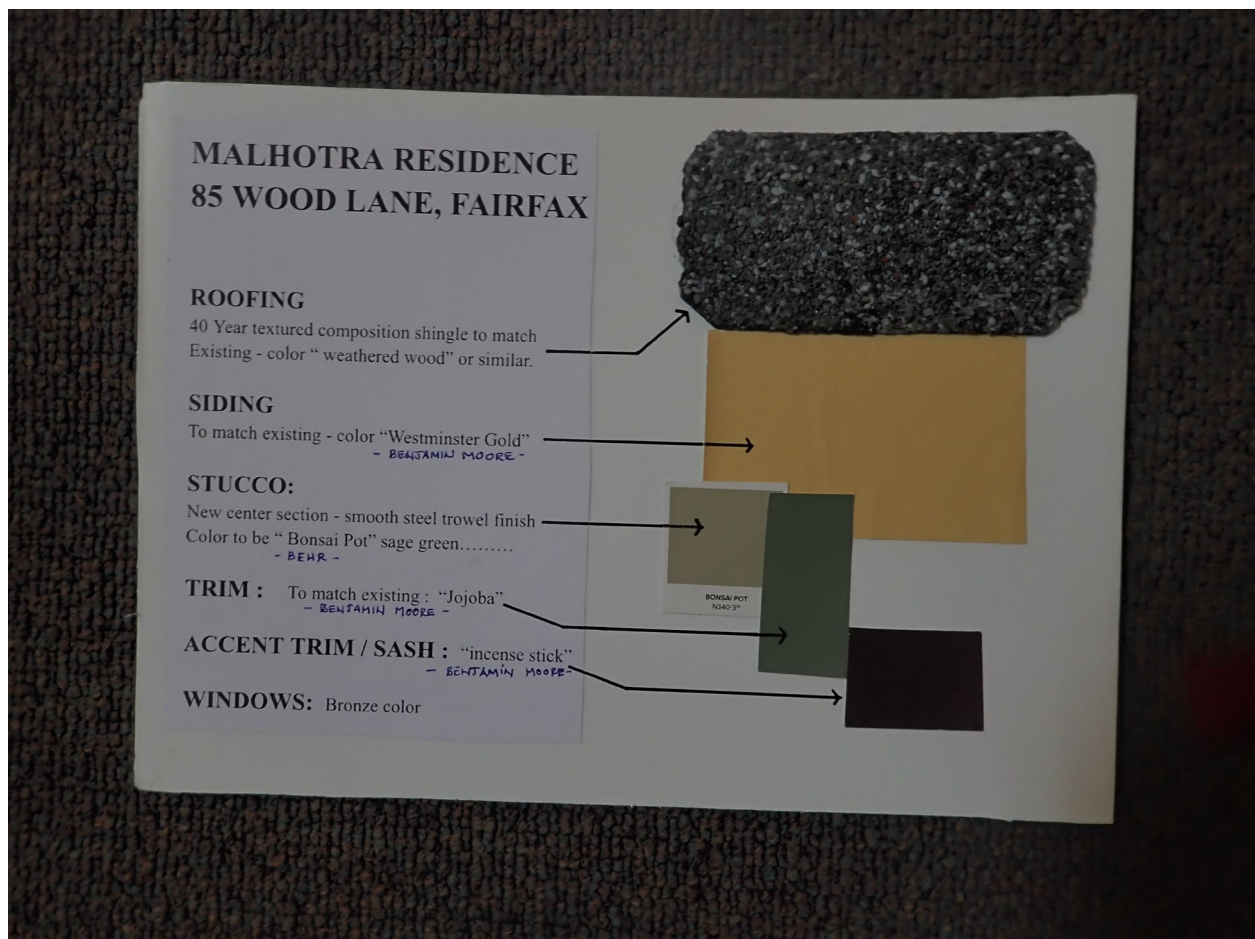
85 WOOD LANE APN # 002-062-04

PROJECT DESCRIPTION

The project encompasses relocating and rebuilding the one car garage one-foot further south of the front property line than the existing garage, a 204 square-foot living room expansion connecting the existing house to the relocated garage, and a 182 square-foot, two story, addition at the rear, southeast, corner of the house. The first floor of the two-story addition includes a combination laundry room with a utility sink and a toilet on the first story and a storage loft with a six-foot ceiling on the second floor accessed via an interior stairway from the laundry room. The 182 square-foot, two story, rear addition reaches approximately nineteen feet above grade at the peak of its roof and the living

room addition reaches approximately fifteen feet above grade at the peak of its roof. The project increases the house from 852 square-feet to 1,238 square feet not including the 300 square-foot garage.

The new roofing material will match the existing grey, "Weathered Wood" asphalt shingles, the siding will be painted a mustard color (Benjamin Moore "Westminster Gold") to match the existing siding color, the stucco of the center living room addition will be smooth, with a steel trowel finish, painted light olive green (Benjamin Moore "Bonsai Pot"), the trim will be painted dark olive green (Benjamin Moore "Jojoba") to match the existing trim, and the accent trim/sash will be painted brown (Benjamin Moore "Incense Stick") (see color board below):



BACKGROUND

The 22,350 square-foot, fifty-foot-wide site slopes up from Wood Lane with an average slope of 49%. The existing 852 square-foot, two-bedroom, one bathroom residence, and 300 square-foot, one car garage, were constructed in 1943.

The records show that the accessory dwelling unit behind the house existed as early as 1958 and is considered legal non-conforming.

DISCUSSION

The site and project comply with the RS-6 Zone regulations including setbacks, floor area ratio (FAR), lot coverage and height as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft, 2 stories
Existing	13 ft.	343 ft.	356 ft.	4 ft. & 6 ft.	10 ft.	.04	.04	13 ft., 1 story
Proposed	No change	No change	No change	No change	No change	.07	.09	19 ft., 2 stories

Note: The legal non-conforming accessory dwelling unit maintains a three-foot setback from the west side property line.

The project will not result in a residence or a floor area ratio (FAR) for the property that is out of character with the surrounding neighborhood. The proposed project will not change the existing side-yard setbacks maintained by the main house and the existing garage. Both the newly relocated and reconstructed garage and the two-story rear addition at the rear of the existing house will maintain the minimum required five-foot side-yard setbacks but will not maintain the required twenty-foot, combined side yard setback.

The proposed project is not a fifty percent remodel, so it does not require Planning Commission approval of a Design Review Permit and does not require inclusion of a vegetative management plan (VMP) in the planning application materials [Town Code § 17.020.030(A) and the planning application, page 8].

The site is not located within ¼ mile of any known Northern Spotted Owl Nesting site (Marin County Parks "Town of Fairfax Northern Spotted Owl Buffers" Map). Therefore, no conditions prohibiting construction during nesting season have been included as conditions of approval for this project.

The project will result in a residence that is similar in size and mass to other residences in the surrounding neighborhood and that maintains a similar FAR (see table below).

85 WOOD LANE – SIMILAR SIZED RESIDENCES IN THE WOOD LANE AREA							
APN #	ADDRESS	LOT S.F.	HOUSE S.F.	# BEDROOMS	# BATHS	GARAGE S.F.	FAR
002-041-13	22 Wood Lane	27,724	1,535	3	1	0	.06
002-041-14	24 Wood Lane	28,520	2,279	4	2	0	.08
002-041-24	38 Wood Lane	29,670	1,956	3	2	420	.07
002-061-01	88 Wood Lane	24,396	2,291	3	2	574	.09
002-061-09	130 Wood Lane	16,524	2,037	4	2.5	418	.12
002-061-15	112 Wood Lane	35,192	1,794	4	3	504	.05
002-061-36	132 Wood Lane	20,034	1,521	3	2	480	.08
002-062-01	69 Wood Lane	21,900	887	2	1	0	.04
002-062-05	89 Wood Lane	21,750	1,679	3	3	320	.08

002-062-06	93 Wood Lane	21,300	1,408	3	2.5	496	.07
002-062-08	105 Wood Lane	20,500	1,307	3	1	200	.06
002-062-14	99 Wood Lane	19,176	1,042	2	1	0	.05
002-062-19	111 Wood Lane	17,710	2,016	2	1.5	0	.05
002-062-20	121 Wood Lane	36,943	726	2	2	0	.02
002-081-01	65 Wood Lane	22,500	1,696	4	2	0	.08
002-081-02	59 Wood Lane	22,500	618	1	1	0	.03
002-081-05	31 Wood Lane	21,375	1,419	2	3	0	.07
002-081-07	15 Wood Lane	19,798	3,366	4	2.5	220	.17
PROJECT SITE							
002-062-04	85 WOOD LANE	22,350	1,238	2	1.5	300	.05

The proposed project requires the approval of a Conditional Use Permit (CUP) and a Combined Side-yard Setback Variance.

The second story addition only reaches nineteen feet in height and maintains the minimum required five-foot side yard setback from the east side property line. The nearest dwelling at 79 Wood Lane maintains a setback of approximately ten feet from the shared side property line with the project site and is twenty-eight feet tall. The proposed addition and reconstruction/relocation of the existing garage, and the addition of a living room expansion between the two structures, will not result in a house that is out of scale with the site or out of character with other homes in this neighborhood that includes many homes with varying architectural styles, sizes and heights.

The owner has requested that the Commission accept shade study information for the project that she has prepared herself. She has used the shade study information prepared for the new house east of the project site at 79 Wood Lane and information from a shade study website (shademap.app). Staff has reviewed the information provided and finds it does provide the required information to demonstrate how the two-story addition at the rear of the site will impact the nearest neighboring property at 79 Wood Lane. The addition will shade a small portion of the future driveway area at 79 Wood Lane at certain times of the day and year but will not have a substantial impact on the amount of sun the neighboring site enjoys throughout the year.

Required Discretionary Permits and Findings to Support Them **Conditional Use Permit – Town Code Chapter 17.032**

The 22,350 square-foot, fifty-foot-wide side is legal non-conforming. Town Code § 17.080.050(C) requires conforming sites having over a 15% slope to increase in area above 7,000 square-feet and above sixty-five feet in width 1,000 square-feet in area and three feet in width for each one percent in slope above fifteen percent. This project site has an average slope of 49% so in order to be considered conforming, the site would have to be 41,000 square-feet in area and 167 feet wide to be deemed a conforming site. Town Code § 17.080.050 requires that a conditional use permit (CUP) be obtained from the Planning Commission prior to any use, occupancy, or physical improvement of or on a building site failing to meet the minimum area and width requirements. Therefore, this project requires the approval of a CUP.

In order to approve a CUP, Town Code sections 17.032.060, (A) through (E) requires that the Commission be able find that the facts of a particular case support the following

findings (***Staff's recommended findings follow the code findings in bold italicized font***):

(A) The location, size, design, and operating characteristics of the use conform to the General Plan and the land use designations for the project site and to the objective zoning standards and objective design standards that apply to the proposed use at the proposed location;

The project as proposed allows the garage to retain its existing footprint with only a small relocation one foot further to the south in order to allow the parking within the new driveway to comply with the minimum nine-foot by nineteen-foot (9-foot by 19-foot) parking space requirements. The project does not encroach further into any required setback than the existing development and it complies with the Floor Area Ratio (FAR) and Lot Coverage limitations set forth in the Town Code. The location, size, design, and operating characteristics of the use conform to the General Plan and the land use designations for the project site and to the objective zoning standards and objective design standards that apply to the proposed use at the proposed location;

(B) The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment;

Many of the residential improvements on Wood Lane were constructed prior to 1973 when the combined setback regulations were put into place by the adoption of Ordinance 352 by the Town, and they do not comply with the required combined side-yard setbacks. Therefore, the approval of a CUP for this project, which does not result in any new construction projecting any further into a required setback than the existing residential structures will not be a grant of special privilege.

(C) The development and use of property, as approved under the use permit, shall not create a public nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding ambient conditions or applicable performance standards, or cause significant adverse physical or environmental effects to abutting or adjoining properties and the surrounding neighborhood, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit;

Allowing the garage to be reconstructed in a similar location to the existing garage will minimize the disturbance to the site. Therefore, even though the rear addition to the house and reconstruction/relocation of the garage will not comply with the combined twenty-foot side-yard setback regulation, approval of the CUP will not create a public nuisance or cause adverse physical or environmental effects to abutting properties.

(D) Approval of the use permit is not contrary to those objectives, goals, or objective

standards pertinent to the particular use and location and contained or set forth in the General Plan, this title, any master plan, development plan or other plan or policy, officially adopted by the town; and

Approval of a CUP to allow this modest project to be built, well below the maximum 28.5 foot height limit at approximately nineteen feet, maintaining all the required minimum setbacks, improving the on-site parking and well below the allowed .40 FAR and .35 Lot Coverage is not contrary to the objectives goals or standards set forth in either the 2023 – 2031 Fairfax General Plan or Title 17, the Fairfax Zoning Ordinance.

(E) Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.

Relocating and reconstructing the one car garage to provide for two full sized parking spaces in the expanded driveway will bring the property into compliance with the Town parking regulations and result in better development of the site than would otherwise be the case [Town Code sections 17.052.010(D), 17.052.030(A)(1)(c) and 17.052.040(B) and (E)].

Combined Side-yard Setback Variance

(1) Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification;

Due to most of the rear of the site having a steep slope of 49% and being only fifty-feet wide, compliance with the required combined twenty-foot side-yard setback is difficult. Requiring compliance with the post 1973 combined side-yard setback on this already developed site will deprive the applicant of the ability to reconstruct the existing garage and improve the site in a manner similar to other developed sites in the surrounding neighborhood under the same zone classification.

(2) The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title;

Approval of a Variance to the twenty-foot, combined side-yard setback regulations will result in a development that is consistent with and of a comparable scale and design to other residences in the neighborhood. Therefore, approval of the Variance will not be a grant of special privilege.

(3) The strict application of this title would result in excessive or unreasonable hardship;

Compliance with the twenty-foot, combined, side yard setback would require a project redesign and would result in either the garage or the living room expansion being relocated into the rear patio area which provides the only usable and level outdoor living space for the site. This would be hardship for the owner.

(4) The granting of the variance or adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

The additions maintain setbacks from the front property line that exceed 13 feet and the relocation of the existing garage one-foot further south from the front property line and widening the driveway to eighteen feet will bring the on-site parking more into compliance with the parking requirements (Town Code Chapter 17.052). The two-story portion of the project will not substantially alter the amount of sunlight reaching the nearest neighboring property at 79 Wood Lane. Therefore, the approval of the Combined Side-yard Setback Variance to allow the project to maintain a combined side-yard setback of twelve feet will not be detrimental to the public welfare or injurious to other property in the project vicinity.

Tree Removal Permit

Town Code § 8.36.030(B) indicates that development projects shall be routed to the Fairfax Tree Committee in the same manner that the town routes applications to affected agencies and requires that they provide a recommendation to the decision-making body within thirty days.

The applicant and staff were unaware that the construction would require the removal of any trees until the ISA certified arborist assessing the health of the existing trees and preparing the tree protection plan provided the applicant with a report advising that the apple tree and the Japanese Maple, which is in poor health, located near the two story addition be removed and replaced. The arborist indicated that the location of the addition at the rear of the site will require the relocation of the apple tree that is leaning into the area where the two-story addition is proposed and many of the branches of the existing Japanese Maple tree will have to be removed to accommodate the addition. The arborist has recommended the Japanese Maple be removed and not be relocated with the apple tree, because it is in poor health. Due to the initial thirty-day application review period having already passed and the next Tree Committee meeting not scheduled until July 22, 2024, after this regular meeting of the Planning Commission, we are asking the Commission to approve the tree removal permit without a recommendation from the Tree Committee based on the following:

The reasons for removing the Japanese Maple and relocating the Apple Tree are in line with the considerations used by the Tree Committee prior to making a recommendation

to the Planning Commission on proposed tree removal (Town Code § 8.36.060(B)(1 through (7) as follows:

The trees proposed for relocation and removal, if allowed to remain, present a danger, both from wildfire and their potential to suffer structural failure and damage the residence after construction if they are allowed to remain in such close proximity to the two-story addition. The trees being removed are located between the existing house and the ADU and their removal will not impact neighboring properties or change the streetscape view of the site, they are not heritage trees, the construction of the addition foundation could further damage both tree's root systems, and these recommendations have been made by Kent Julin, an ISA Certified Arborist who has included in his report, an inspection schedule and tree protection plan referenced in Town Code section 8.36.060(A)(Attachment C).

Town Code § 8.36.090 indicates that an applicant for any development permit under Title 17, the Zoning Ordinance, need not obtain a separate tree removal permit to alter or remove a tree designated as "To Be Removed" on a development plan, provided that the tree alteration or removal has been reviewed and approved by the decision-making body based on the criteria in § 8.36.060(B) and an application includes a tree protection plans in accordance with section 8.36.080 of Town Code Chapter 8.36, Trees.

We are recommending that the Planning Commission approve the requested tree removal permit without a recommendation from the Tree Committee based on the above discussion and subject to the apple tree being relocated and a replacement tree that is verticillium resistant being planted somewhere on the site as recommended by the project arborist (Attachment C, page 5).

Other Agency/Department Comments/Conditions
Ross Valley Fire Department (RVFD)

The site is in the Wildland Urban Interface (WUI) Zone and the structure will be required to have a sprinkler system installed throughout the building that complies with the requirements of the National Fire Protection Association 13-D standard and local standards. For a complete list of the conditions including the standard fire conditions see the attached Resolution No. 2024-11 (Attachment A).

Ross Valley Sanitary District (RVSD)

The project triggers testing and certification requirements and will require a sewer lateral permit that shall be submitted to the District once the building permit for the project has been issued. Contact RVSD for additional information on how to file said permit.

Marin Municipal District, Fairfax Police Department, Fairfax Public Works, Fairfax Building Department

The Town received no comments from the Marin Municipal Water District, the Fairfax Police Department, Fairfax Public Works Department, or the Fairfax Building Department.

RECOMMENDATION

Conduct the public hearing and then move to approve application # 24-08 by adopting attached Resolution No. 2024-11, Attachment A, containing the required findings and the conditions for the project approval.

ATTACHMENTS

A – Resolution No. 2024-11

B - Applicant's shade study information

C - Kent Julin, ISA Certified Arborist Assessment/Tree Protection Plan

RESOLUTION NO. 2024-11

A Resolution of The Fairfax Planning Commission Approving Application No. 24-08 for a Conditional Use Permit, Tree Removal Permit, and a Combined Side-yard Setback Variance Remodel and Expansion the Existing Single-family Residence at 85 Wood Lanet

WHEREAS, the Town of Fairfax received an application from Renu Malhotra to remodel and expand the existing 852 square-foot, 1-story, 2-bedroom, 1-bathroom, single-family residence and detached 300 square-foot, one car garage converting them into a 1,278 square-foot, 2-bedroom, 1 ½ -bathroom, single-family residence on the first floor with a 341 square-foot, storage loft on the second floor on May 9, 2024; and

WHEREAS, the application was deemed complete on July 1, 2024; and

WHEREAS, the Commission held a duly noticed public hearing on the proposed project on July 18, 2024; and

WHEREAS, after holding the public hearing the Planning Commission determined that the project complies with the Design Review Ordinance and that findings can be made to grant the requested Conditional Use Permit, Design Review Permit, Tree Removal Permit and Combined Side-setback Variance; and

WHEREAS, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

Policy LU-1.2.3: New and renewed development shall be designed and located to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size, and mass.

Conditional Use Permit Findings [Town Code § 17.032.060(A) through (E)]

- A.** The project as proposed allows the garage to retain its existing footprint with only a small relocation one foot further to the south in order to allow the parking within the new driveway to comply with the minimum nine-foot by nineteen-foot (9-foot by 19-foot) parking space requirements. The project does not encroach further into any required setback than the existing development and it complies with the Floor Area Ratio (FAR) and Lot Coverage limitations set forth in the Town Code. The location, size, design, and operating characteristics of the use conform to the General Plan and the land use designations for the project site and to the

ATTACHMENT A

objective zoning standards and objective design standards that apply to the proposed use at the proposed location;

- B. Many of the residential improvements on Wood Lane were constructed prior to 1973 when the combined setback regulations were put into place by the adoption of Ordinance 352 by the Town, and they do not comply with the required combined side-yard setbacks. Therefore, the approval of a CUP for this project, which does not result in any new construction projecting any further into a required setback than the existing residential structures will not be a grant of special privilege.
- C. Allowing the garage to be reconstructed in a similar location to the existing garage will minimize the disturbance to the site. Therefore, even though the rear addition to the house and reconstruction/relocation of the garage will not comply with the combined twenty-foot side-yard setback regulation, approval of the CUP will not create a public nuisance or cause adverse physical or environmental effects to abutting properties.
- D. Approval of a CUP to allow this modest project to be built, well below the maximum 28.5 foot height limit at approximately nineteen feet, maintaining all the required minimum setbacks, improving the on-site parking and well below the allowed .40 FAR and .35 Lot Coverage is not contrary to the objectives goals or standards set forth in either the 2023 – 2031 Fairfax General Plan or Title 17, the Fairfax Zoning Ordinance.
- E. Relocating and reconstructing the one car garage to provide for two full sized parking spaces in the expanded driveway will bring the property into compliance with the Town parking regulations and result in better development of the site than would otherwise be the case [Town Code sections 17.052.010(D), 17.052.030(A)(1)(c) and 17.052.040(B) and (E)].

Combined Side-yard Setback Variance Findings (Town Code § 17.028.070(A)(1) through (4))

- 1. Due to most of the rear of the site having a steep slope of 49% and being only fifty-feet wide, compliance with the required combined twenty-foot side-yard setback is difficult. Requiring compliance with the post 1973 combined side-yard setback on this already developed site will deprive the applicant of the ability to reconstruct the existing garage and improve the site in a manner similar to other developed sites in the surrounding neighborhood under the same zone classification.
- 2. Approval of a Variance to the twenty-foot, combined side-yard setback regulations will result in a development that is consistent with and of a comparable scale and design to other residences in the neighborhood. Therefore, approval of the Variance will not be a grant of special privilege.

3. Compliance with the twenty-foot, combined, side yard setback would require a project redesign and would result in either the garage or the living room expansion being relocated into the rear patio area which provides the only usable and level outdoor living space for the site. This would be hardship for the owner.
4. The additions maintain setbacks from the front property line that exceed 13 feet and the relocation of the existing garage one-foot further south from the front property line and widening the driveway to eighteen feet will bring the on-site parking more into compliance with the parking requirements (Town Code Chapter 17.052). The two-story portion of the project will not substantially alter the amount of sunlight reaching the nearest neighboring property at 79 Wood Lane. Therefore, the approval of the Combined Side-yard Setback Variance to allow the project to maintain a combined side-yard setback of twelve feet will not be detrimental to the public welfare or injurious to other property in the project vicinity.

Tree Removal Permit [Town Code § 8.36.060(B)(1) through (7)]

The Planning Commission finds that the reasons for removing the Japanese Maple and relocating the Apple Tree are in line with the considerations used by the Tree Committee prior to making a recommendation to the Planning Commission on proposed tree removal (Town Code § 8.36.060(B)(1 through (7) as follows:

The trees proposed for relocation and removal, if allowed to remain, present a danger, both from wildfire and their potential to suffer structural failure and damage the residence after construction if they are allowed to remain in such close proximity to the two-story addition. The trees being removed are located between the existing house and the ADU and their removal will not impact neighboring properties or change the streetscape view of the site, they are not heritage trees, the construction of the addition foundation could further damage both tree's root systems, and these recommendations have been made by Kent Julin, an ISA Certified Arborist who has included in his report, an inspection schedule and tree protection plan referenced in Town Code section 8.36.060(A)(Attachment C).

The Commission is therefore, granting the requested tree removal permit to relocate the apple tree and remove and replace the Japanese Maple at the rear of the proposed two-story addition by the adoption of this Resolution No. 2024-11

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

The project is approved based on the following plans and report:

1. Project Plan Set received by the Town on July 11, 2024, prepared by Jonathan Livingston, and the July 19, 2024, arborist report by Sadie Julin, ISA Certified Arborist, and the project color board.

2. The project is subject to the following conditions of approval:
 - a. Prior to issuance of any of the building permit for the project the applicant or his assigns shall submit a detailed Construction Management and Staging Plan to the Public Works Department for their approval. The amended plan shall include but is not limited to the following:
 - i. Construction delivery routes approved by the Department of Public Works.
 - ii. Construction schedule (deliveries, worker hours, etc.)
 - iii. Notification to area residents
 - iv. Emergency access routes
 - v. Construction worker staging area
3. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the public construction delivery routes (routes to be pre-approved by Public Works Director).
4. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Department and the Ross Valley Sanitary District noting the development conformance with their recommendations.
5. Prior to the removal of any trees subject to the Town Tree Ordinance not approved with this action, the applicant shall secure a tree cutting permit from the Fairfax Tree Committee.
6. During the construction process the following shall be required:
 - a. All construction-related vehicles including equipment delivery, cement trucks and construction materials shall always be situated off the travel lane of the adjacent public right(s)-of-way. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
 - b. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
 - c. Prior to issuance of the project final inspection the Planning Department shall field check the completed project to verify that all staff, agency, and planning commission conditions have been complied with prior to issuance of the certificate of occupancy.

7. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them daily, if necessary.
8. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 24-08. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director or the Planning Commission. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 24-08 by the Planning Commission or the Planning Director will result in the job being immediately stopped and red tagged.
9. Any damage to the public portions of Wood Lane, Porteous Avenue, Creek Road, or Bolinas Road or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
10. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council or Planning Director or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
11. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act and Best Management Practices for Stormwater Pollution Prevention.

12. Conditions placed upon the project by outside agencies, Town departments or by the Town Engineer may be eliminated or amended with that agency, department, or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.

Ross Valley Fire Department

13. Vegetation must be kept trimmed so that the site address numbers are visible when the site is being accessed traveling east or west on Mountain View Road (a two-way street).
14. The project requires installation of a fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
15. All vegetation and construction materials are to be maintained away from the residence during construction.
16. Address numbers at least four inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in a location that is visible from the street. The numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
17. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
18. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

Ross Valley Sanitary District (RVSD)

19. The project triggers RVSD's testing and certification requirements for the existing sewer laterals for the main house and the ADU and may require a sewer lateral permits for upgrades. The applicant shall contact Ross Valley Sanitary District for information on how to obtain certification.
20. A hold will be placed on the property when the building permit is issued and will not be released for occupancy until the District permit and sewer requirements have been fulfilled.
21. A Certificate of Compliance for the lateral(s) must be obtained from the RVSD prior to the project final inspection by the Fairfax Building Department if any laterals need to be replaced as determined by the required testing.

Planning Requirements

22. Any exterior lighting that has the fixtures replaced and any new exterior lighting must be replaced with dark sky compliant (fully shielded and emit no light above the horizontal plane with no sag or drop lenses, side light panels or uplight panels) as well as compliance with color temperature to minimize blue rich lighting. The lighting shall not emit direct offsite illumination and shall be the minimum necessary for safety.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The Conditional Use Permit, Tree Removal Permit and Combined Side-yard Setback Variance to allow the remodel and expansion of the residence at 85 Wood Lane are approved and the findings have been made to grant the requested discretionary permits. Therefore, the project is in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the project can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of July 2024, by the following vote:

AYES:

NOES:

ABSENT:

RECUSED:

Chair Robert Jansen

Attest:

Jeffrey Beiswenger, Planning Director

Linda Neal

From: Renu Malhotra <renu@thelemontree.org>
Sent: Wednesday, June 12, 2024 9:44 AM
To: Linda Neal
Cc: 'jonathan livingston'; Jeff Beiswenger
Subject: RE: Incomplete letter for 85 Wood Lane.- Shade Study

Hi Linda

Thank you for your reply. To clarify, it is not because I don't want to prepare a shade study- I have actually gone a long way towards it.

The Permit Application notes for the Shade Study section reads "The Project Planner may waive this requirement due to site circumstances (such as existing tree screening that will remain)". I am adding additional reasons here to support my request for consideration of waiving the requirement due to site circumstances:

- Pie 1 - Overhead image of properties from shade study website - shademap.app. Potentially impacted area shown as yellow circle
- You can see the shade from the maple tree within the circle which is 18' above grade vs the proposed 2-storey structure at 19'. The tree is next to the proposed structure.
- The impacted area is the driveway and back-of-house next door which may or not be completed any time soon - and is generally shaded by the house itself.
- Pie 2 - I took a photo yesterday at 3pm attached below. The height and placement of the tree is a good representation of the June solstice requirement - taken June 11 @3pm.
- Pie 2 - Note the incomplete fence - with temporary shade cloth. When finished the fence will be higher and that makes it difficult to do an accurate shade study since that will create its own shade.
- Pie 3 - See attached shade study from my #79 neighbor's approved application (with much larger structure) to show the trends of shade cast during the year in my exact location.
- In December afternoons the shade from my proposed structure would extend further into the backyard area of #79 which is already shaded by #79 much of the day - and can be seen in Pie1.

Thank you for your consideration,
Best Regards
-Renu

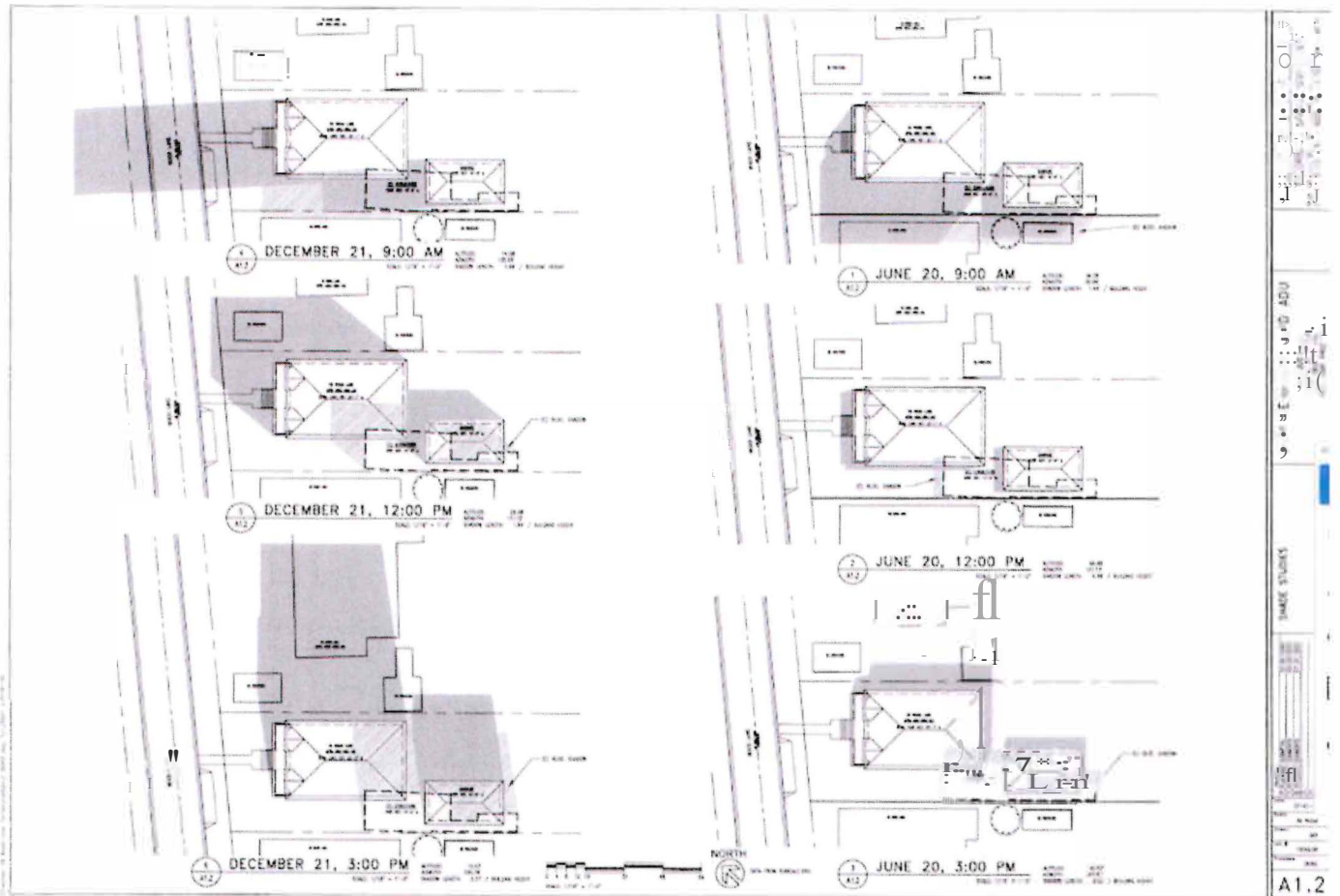
Piel - overhead view from shademap.app website:



Pic2 - Shade of maple tree at fence line with pad of #79 garage showing incomplete driveway and fence



Pie 3 From #79 shade study and impact on #72 - accurate representation of shade trends in my own location



From: Linda Neal <lneal@townoffairfax.org>
 Sent: Monday, June 10, 2024 7:39 PM
 To: Renu Malhotra <renu@thelemonetree.org>
 Cc: jonathan livingston <jlivingston7096@gmail.com>; Jeff Beiswenger <jbeiswenger@townoffairfax.org>
 Subject: Re: Incomplete letter for 85 Wood Lane.

Hi Renu,

The Planning Commission voted to have the shade studies included in any addition that increases the height of the home higher than the existing roofline of the house some time ago. I can certainly put your explanation below in the staff report packet if you do not want to prepare the required shade study. Then it will be up to the Planning Commission if they accept that in lieu of what they voted to have us include in the planning application form checklist.

I do not know how they will vote on something like this.

Linda Neal

Principal Planner

(415) 453-1584

From: Renu Malhotra <renu@thelemontree.org>
Sent: Monday, June 10, 2024 12:24 PM
To: Linda Neal <lneal@townoffairfax.org>; 'Jonathan Livingston' <jlivingston7096@gmail.com>
Subject: RE: Incomplete letter for 85 Wood Lane.

Thank you Linda

We are working on these remaining items.

I would like to discuss the shade study requirement for the short second storey, and your consideration to waive the requirement for it in this application based on the following:

I purposefully located the 2nd storey furthest away from my South-Westerly neighbors at #89 to have zero impact on their light.

My other neighbor #79, to the NE side, Coby Friedman's house ends level with my existing home. There is a future driveway area/ backyard behind his home but it is unknown what the details are.

In the mornings, the biggest shade impact will be in my own central patio area; through the day the limited shade will swing over my own home. Any late afternoon shade that falls into #79 property will be in the as-yet undefined back yard area/ driveway. My pre-existing maple tree is between the 2nd storey and the adjoining future fence so there is also pre-existing screening.

Thank you for your consideration

Best Regards

-Renu

-----Original Message-----

From: Linda Neal <lneal@townoffairfax.org>
Sent: Friday, June 07, 2024 1:59 PM
To: Jonathan Livingston <jlivingston7096@gmail.com>
Cc: Renu Malhotra <renu@thelemontree.org>
Subject: FW: Incomplete letter for 85 Wood Lane.

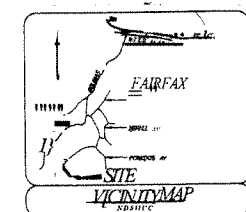
Call me Monday if either of you have any questions.

Sincerely,

Linda Neal
Principal Planner
(415) 453-1584

-----Original Message-----

From: copier@townoffairfax.org <copier@townoffairfax.org>
Sent: Friday, June 7, 2024 1:57 PM
To: Linda Neal <lneal@townoffairfax.org>
Subject:



**MALHOTRA
RESIDENCE ADDITION**
85 WOOD LANE
FAIRFAX, CA

SheetC,ontents

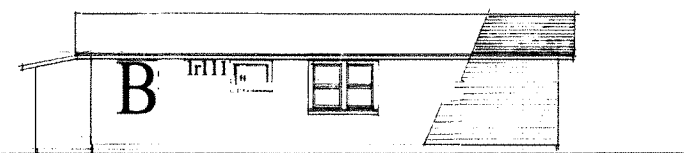
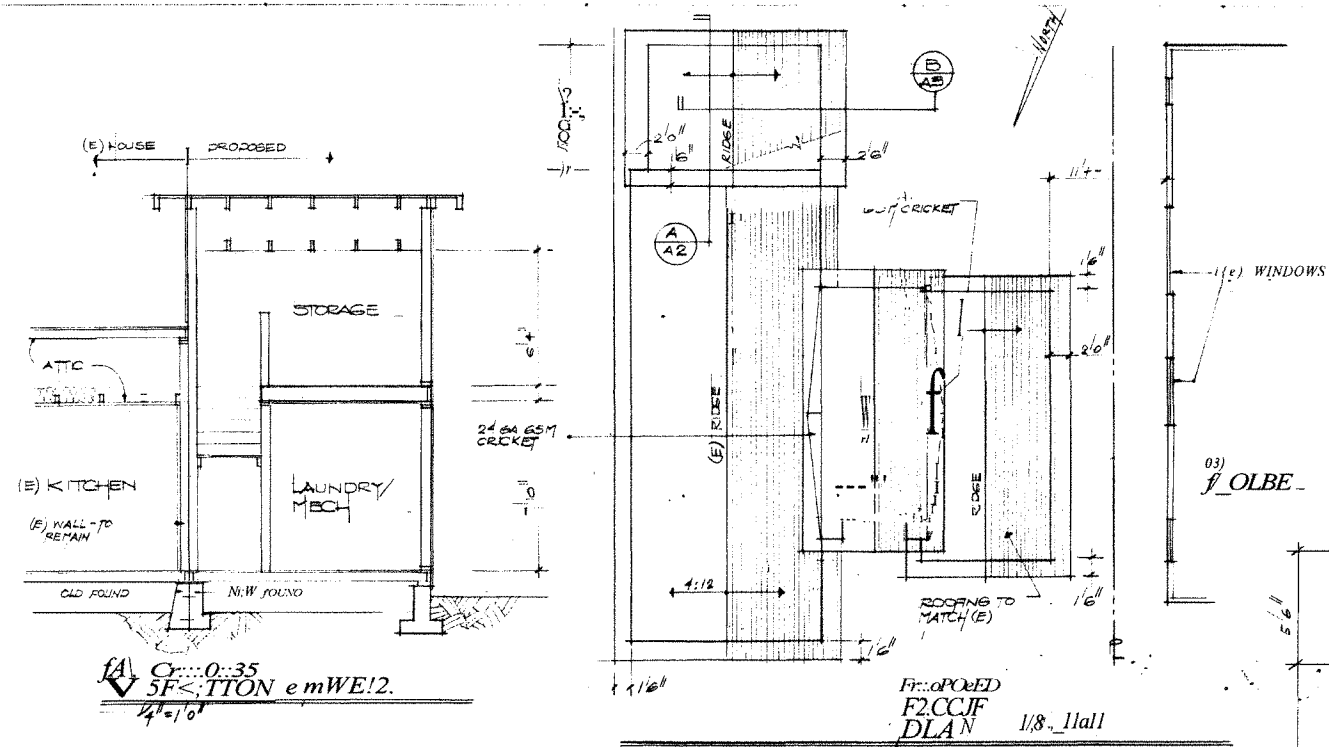
5/TE PLAN

WITH
LANDSCAPE
AND
DINAQE
FLAN

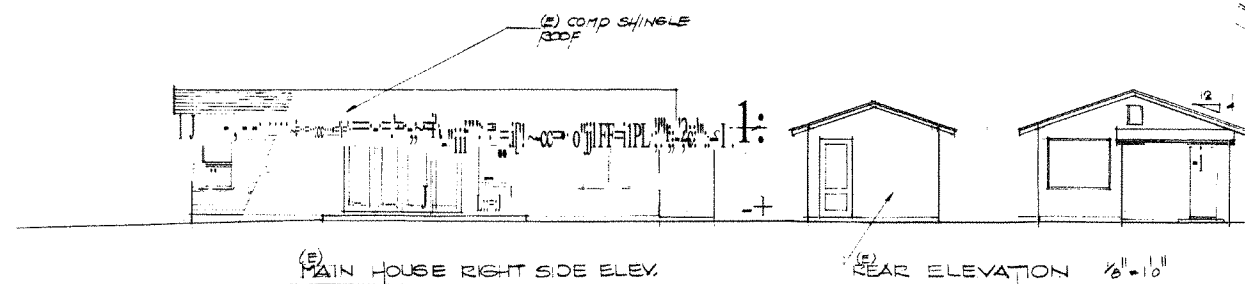
Date
Job
Drawn
Revisions

Scale

A

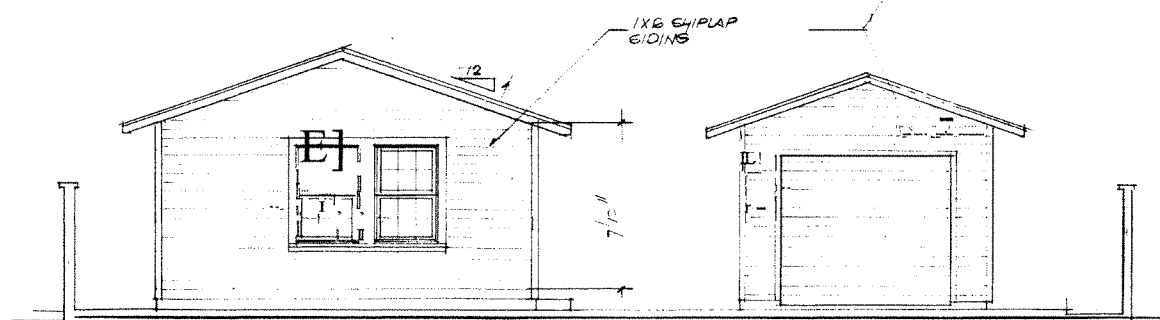


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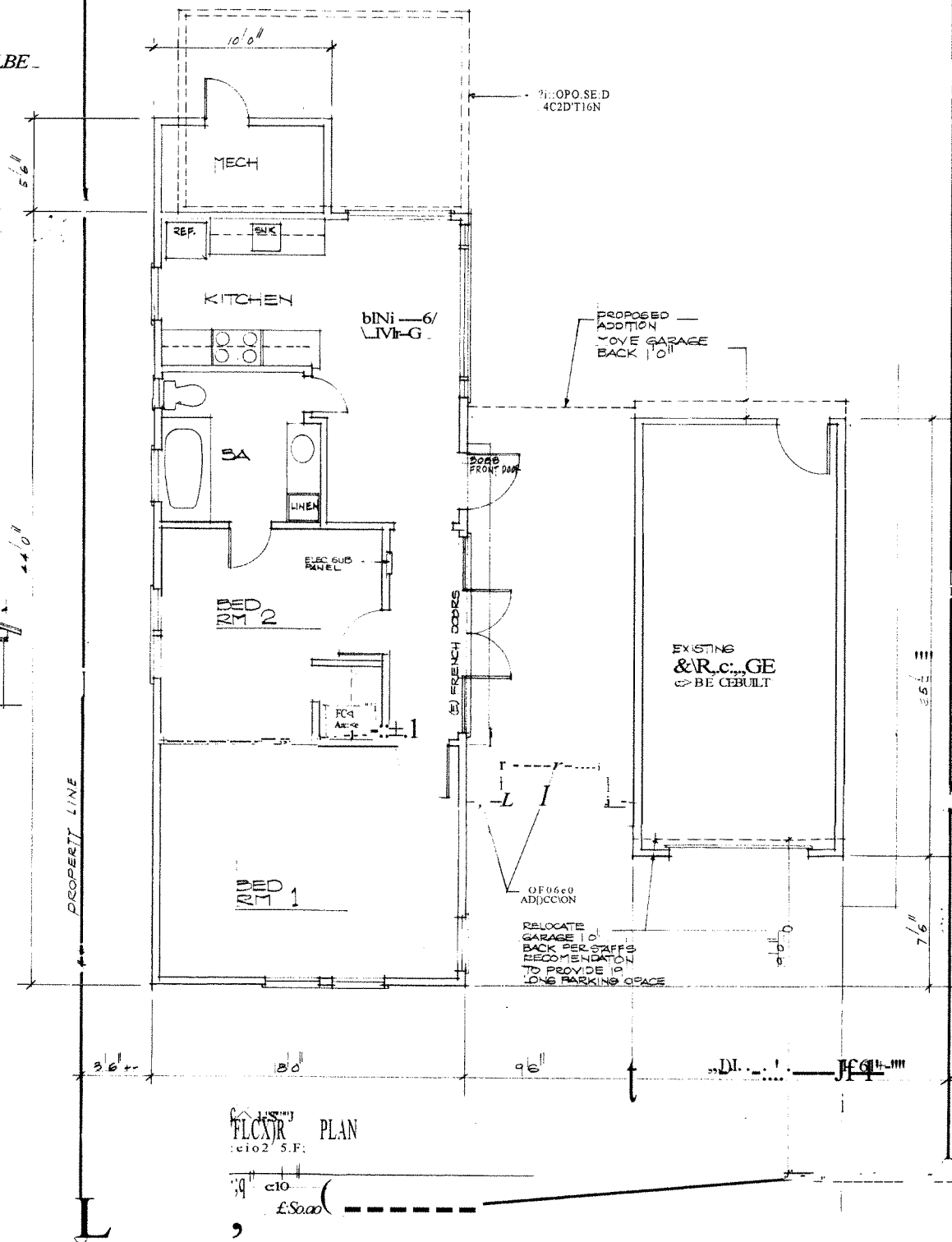


(E) MAIN HOUSE RIGHT SIDE ELEV.

(5)
REAR ELEVATION



(E)
FRONT
ELEVATION



IN A DOOR

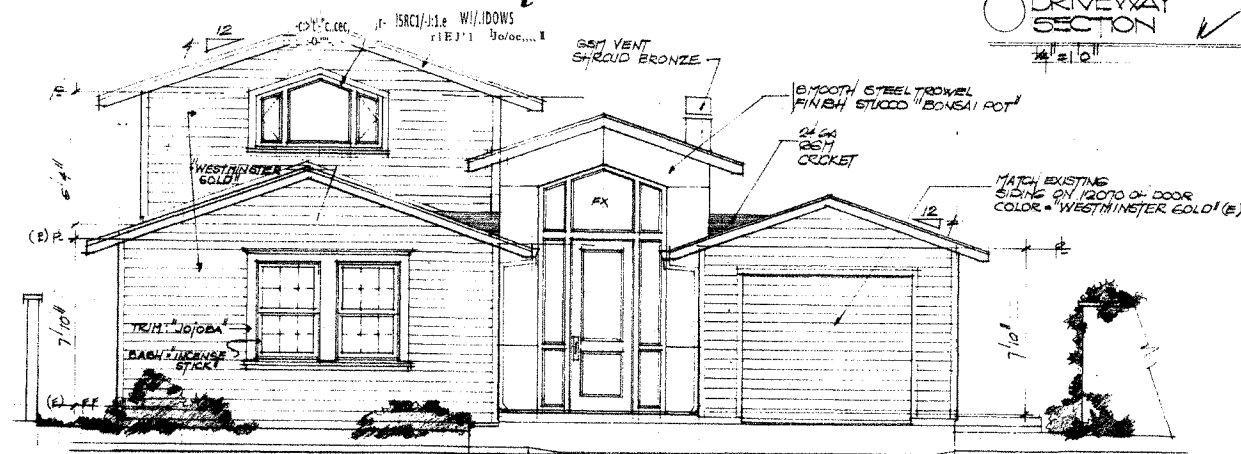
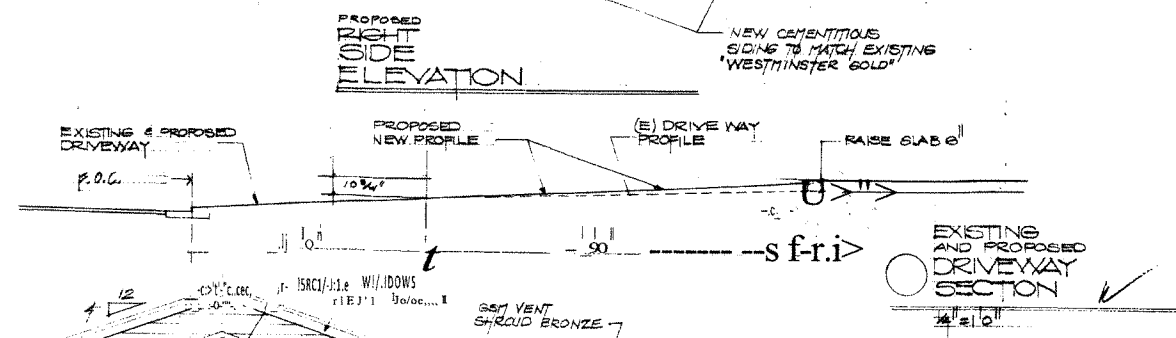
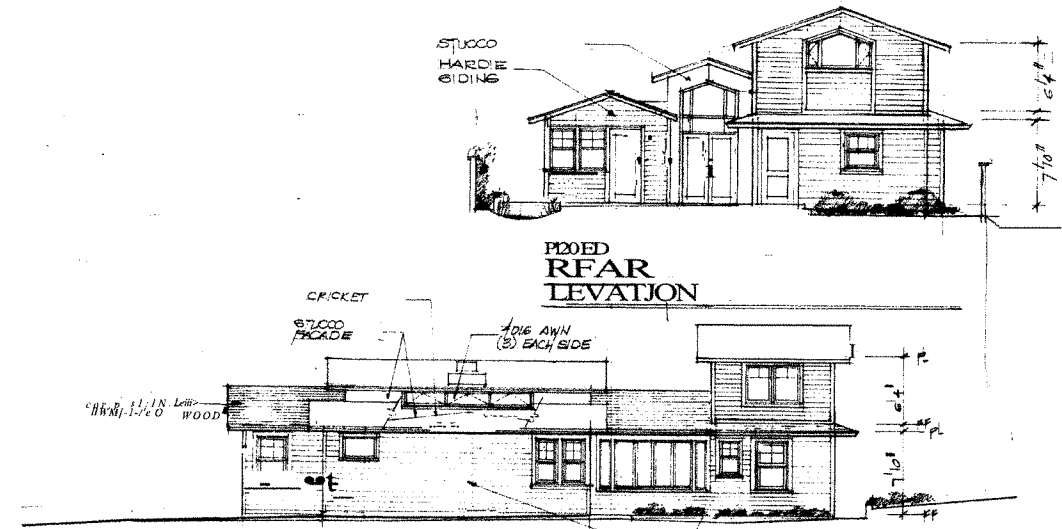
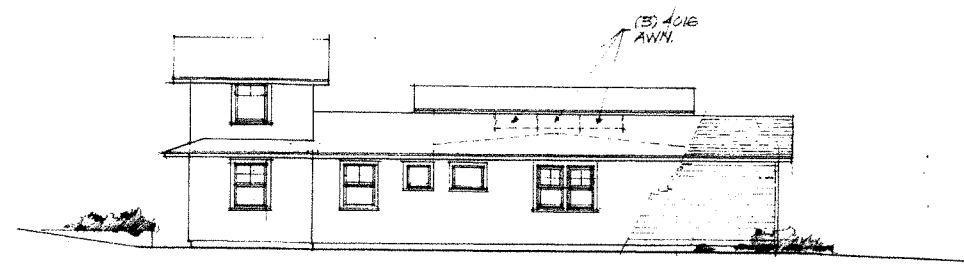
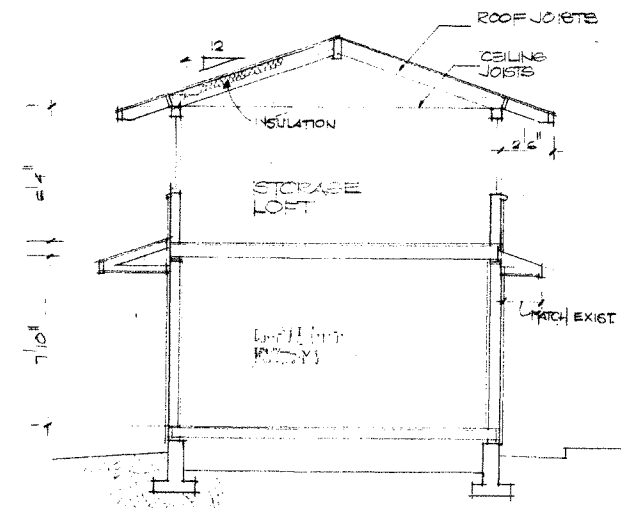
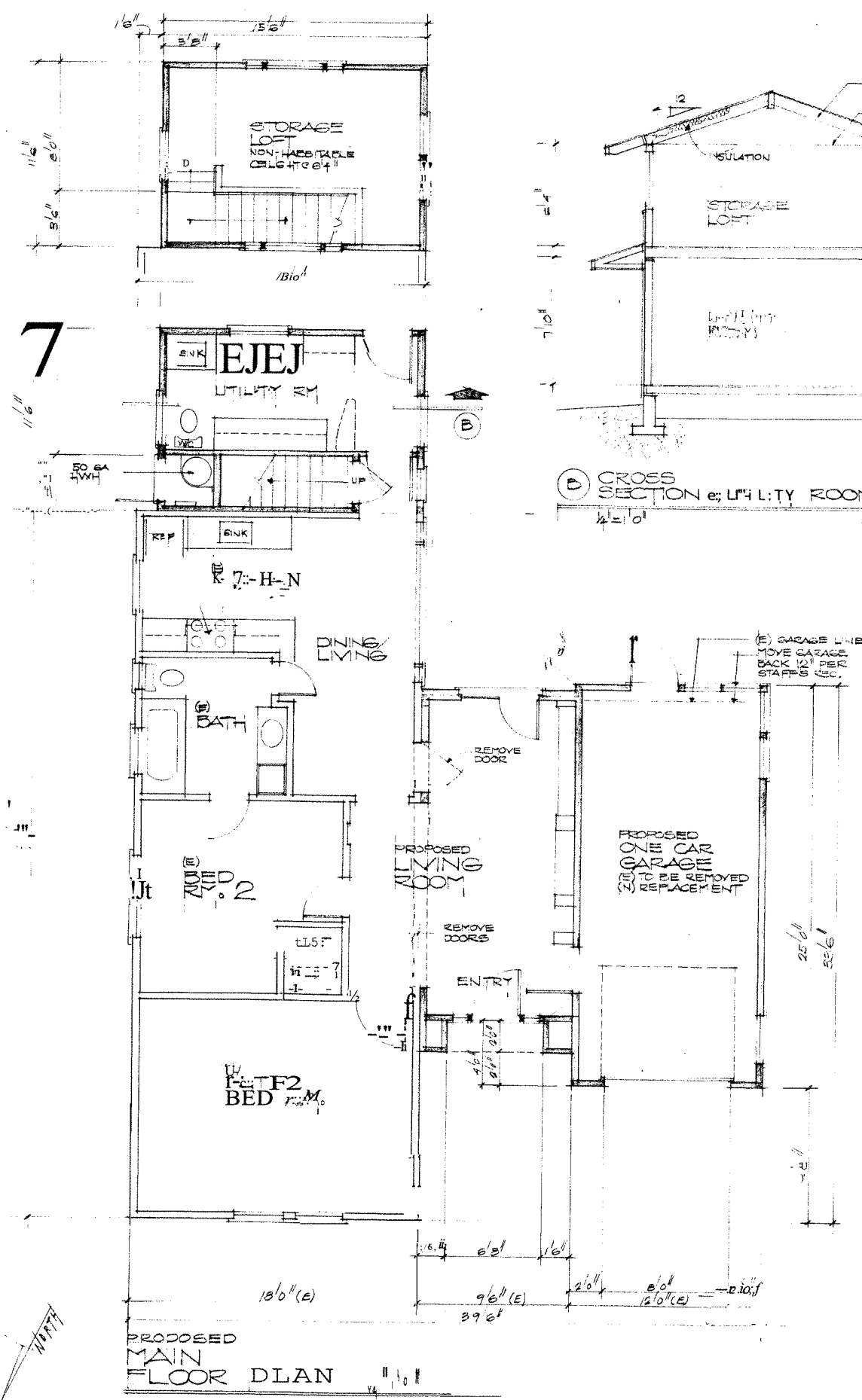
SheetContents

EXTINGUISHING PLAN

Date	3/23/
Job	5/02/
Drawn	
Revisions	

Scale

A2



ORANGE COUNTY JUNIOR COLLEGE

Sheet Contents

PROPOSED PLAN

Date	1/3/25
Job	1/2/25
Drawn	1/2/25
Revisions	
Scale	1/4" = 1'-0"

A3

EXISTING
MAIN HOUSE
FLOOR PLAN
852 sq
STRUCTURE TO BE
LEFT AS-IS

(E) NON CONP. FLOOR
AREA TO BE REMOVED

PROPOSED
ADDITION
DESIGNED TO BE
STRUCTURALLY INDEPENDENT
OF EXISTING STRUCTURE. NO
(E) BEAMS OR WALLS AFFECTED

PROPOSED
ADDITION TO
HOUSE

204.25 sq
181.5 sq
385.75 sq TOTAL ADDITION

EXISTING
FLOOR AREA = 852 sq
30% OF 852 = 426 sq LESS THAN

PROPOSED
ADDITION = 181.5 + 204.25 = 385.75 sq (45%+) OF 852

EX-1577 NG
GARAGE 300 sq

EXISTING
NON-CONFORMING
STRUCTURE

REQUESTING
PERMISSION TO FIX
WATER & STRUCTURAL
DAMAGE & RE BUILD
IN THE SAME LOCATION
& SAME SIZE BUT HIGHER
SLAB ELEVATION +1'-6"

PROPOSED
DEVELOPMENT
SUMMARY

RE:

PROPOSED ADDITION

FOR:
RENU MALHOTRA
85 WOOD LANE
FAIRFAX

DESIGN
PROFESSIONAL:
JONATHAN LIVINGSTON
510-230-5430 8/24

MALHOTRA ARCHITECTS
85 WOOD LANE
FAIRFAX, CA

Sheet Contents

DEVELOPMENT
SUMMARY

Date
Job
Drawn 5/23/24
Revisions
Scale

A4

ARBORIST REPORT

**Assessment of Five Trees
85 Wood Lane
Fairfax, CA
(APN: 002-062-04)**

Prepared for:
**Renu Malhotra
85 Wood Lane
Fairfax, CA 94930
renu@thelemontree.org**

Prepared by:
**Sadie Julin
ISA Certified Arborist
ISA Tree Risk Assessment Qualified
ARBORSCIENCE, LLC**

June 19, 2024

P.O. Box 111, Woodacre, CA 94973-0111
(415) 419-5197 • kent.julin@gmail.com • arborscientist.com

ATTACHMENT C

ASSIGNMENT

Renu Malhotra hired **ARBORSCIENCE, LLC** to assess five trees growing on her property at 85 Wood Lane in Fairfax, in relation to the proposed remodel of her home. The purpose of this inspection was to evaluate the possible impacts of construction and feasibility and advisability of retaining these trees. I reviewed project plans prepared by Jonathan Livingston dated 3/23/24 and inspected the trees on June 13, 2024.

SCOPE OF WORK AND LIMITATIONS

This assessment is based on the circumstances and observations, as they existed at the time of the site inspection. Opinions in this assessment are given based on observations made and using generally accepted professional judgment, however, because trees are living organisms and subject to change, damage and disease, the results, observations, recommendations, and analysis as set out in this assessment are valid only at the date any such observations and analysis took place and no guarantee, warranty, representation or opinion is offered or made by Arborscience as to the length of the validity of the results, observations, recommendations and analysis contained within this assessment. As a result the client shall not rely upon this Assessment, save and except for representing the circumstances and observations, analysis and recommendations that were made as at the date of such inspections. We recommend that the tree(s) discussed in this assessment be re-assessed periodically.



SITE DESCRIPTION AND CONTEXT

The home at 85 Wood Lane was built in Fairfax in 1943 on a sloping (average 49%), 0.51-acre parcel (APN: 002-062-04). The lower portion of the parcel with the house is nearly level and vegetation there consists of a landscaped garden with ornamental trees. The Town of Fairfax regulates the alteration and removal of trees measuring 4" or greater in diameter at 54" above grade. None of the trees inspected for this report fall under the category of "heritage" trees in Fairfax due to their species. The subject trees are numbered on the aerial photo, right.



SUBJECT TREE DESCRIPTIONS AND RECOMMENDATIONS

Tree 1 is a cutleaf weeping birch (*Betula pendula* 'Laciniata') that measures 11.5" in diameter at 54" above grade. It forks at 13' and 15'. I did not observe any signs of trunk or limb decay, aside from one small (1" diam) branch at the very top of the tree. This tree is in good condition and appears healthy. It is rooted 5' from the driveway and 12' from the nearest corner of the garage.

- **Construction impacts:**

- The removal and replacement of the garage are unlikely to significantly impact the tree, due to the distance from the trunk.
- I understand that the parking area is to be re-done, which will involve removing the existing concrete driveway and replacing it with a pervious paving surface. It is very likely that this tree has numerous roots below the driveway, so this may impact the tree.

- **Recommendations:**

- Install a fence along the border of the driveway, and between the tree and the garage to prevent damage to the tree (see Figure 1).
- Leave the concrete driveway in place during construction as a pathway for equipment and materials. This will protect the underlying roots and prevent soil compaction.
- When replacing the concrete, if any levelling of the area is required, material should be added rather than removed (built up).

Tree 2 is a sitka spruce (*Picea sitchensis*) that measures 23" in diameter at 54" above grade. It forks at 16', 25', and 30', indicating that it was topped multiple times during its development. It has also been pruned for line clearance. It is rooted 12' from the corner of the home and <1' from the concrete pathway.

- **Construction impacts:**

- The remodel of the primary residence is unlikely to impact this tree.
- I understand that the parking area is to be re-done, which will involve removing the existing concrete driveway and replacing it with a pervious paving surface. It is very likely that this tree has numerous roots below the driveway, so this may impact the tree.

- **Recommendations:**

- Install a fence along the border of the driveway, and between the tree and the garage to prevent damage to the tree (see Figure 1).
- Leave the concrete driveway in place during construction as a pathway for equipment and materials. This will protect the underlying roots and prevent soil compaction.
- When replacing the concrete, if any levelling of the area is required, material should be added rather than removed (built up).



Tree 3 is a lemon (*Citrus limon*) that has two trunks that measure 2.5" and 3" in diameter at 54" above grade. It forks at 1' above grade. This tree is in excellent condition – it has been well-maintained by pruning and has a healthy, dense canopy. I noted some minor trunk decay at the base associated with old pruning wounds. It is rooted 10'3" from the nearest corner of the house.

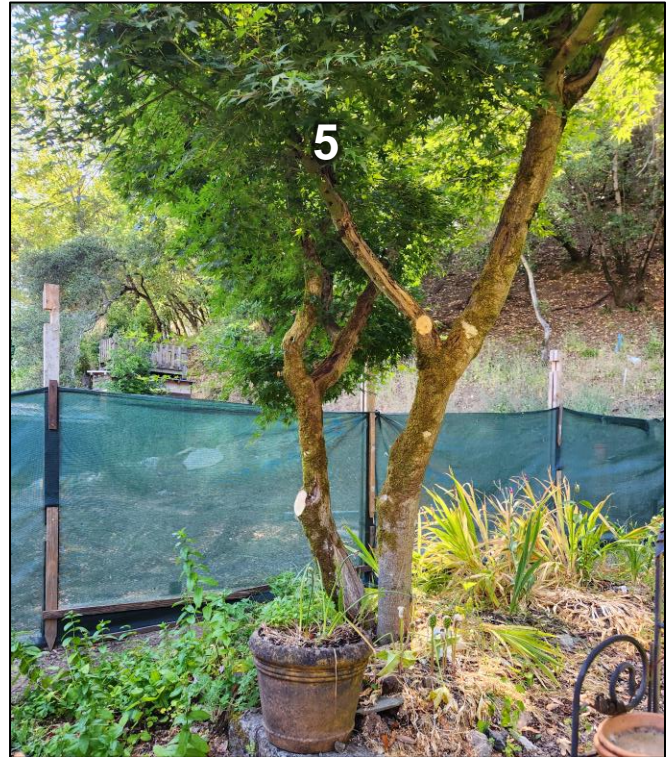
- **Construction impacts:** this tree is unlikely to be impacted by construction.
- **Recommendations:**
 - Install a fence outside the dripline to prevent damage during construction.

Tree 4 is an apple (*Malus domestica*) that measures 7.5" in diameter at 54" above grade. It has excellent vigor and has been maintained as a small tree through regular pruning. The trunk has a significant lean toward the house – it extends 5.5' laterally toward the house before growing vertically. It is rooted 8.5' from the nearest corner of the house.

- **Construction impacts:**
 - Due to the trunk lean, the canopy of this tree is actually >50% within the proposed addition. It is necessary to remove this tree to accomplish the project.
- **Recommendations:**
 - Remove and replace in a different location within the yard.



Tree 5 is a Japanese maple with two main trunks that each measure 6.5" in diameter at 54" above grade. It has been well-maintained with pruning and has healthy foliage, but both trunks and all major limbs have significant decay (40-60% of the circumference). This is consistent with damage from a common fungal problem in our area called *Verticillium*. It is rooted 32" from the far edge of the existing rock wall and 9' from the nearest corner of the house. Overall this tree is in poor condition and is likely to continue to decline in condition.



- **Construction impacts:**

- This tree is likely to experience significant root loss during excavation for the foundation of the addition. Given its poor condition, it is likely that this will cause a further decline in condition.
- The position of this tree relative to the proposed addition will result in it being very close to the exterior wall. It would be very difficult to adequately protect during construction and will likely impede access to the exterior during construction.

- **Recommendations:**

- This tree is in generally poor condition and I recommend removing it and replacing it with a verticillium-resistant species.

RECOMMENDED INSPECTION SCHEDULE AND NOTE ABOUT TRENCHING

- After tree-protection fencing has been installed but before demolition.
- As-needed, IF large roots (>2" diameter or greater) are encountered and must be cut, OR if a tree has been damaged during construction.
- Final inspection after construction is completed, to assess any impacts to the trees and provide recommendations for tree health and longevity.
- No trenching may occur within the tree-protection fencing without arborist oversight and approval.

Sincerely,
ARBORSCIENCE, LLC

Sadie Julin

Sadie Julin
ISA Certified Arborist #WE-14171A
ISA Tree Risk Assessment Qualified

Actual location of apple canopy

Tree-protection fencing

PROPOSED ADDITION 131.5 sq ft

SHEET INDEX

Sheet	Description
A1	SITE PLAN
A2	EXISTING
A3	PROPOSED
A4	DEVELOPMENT