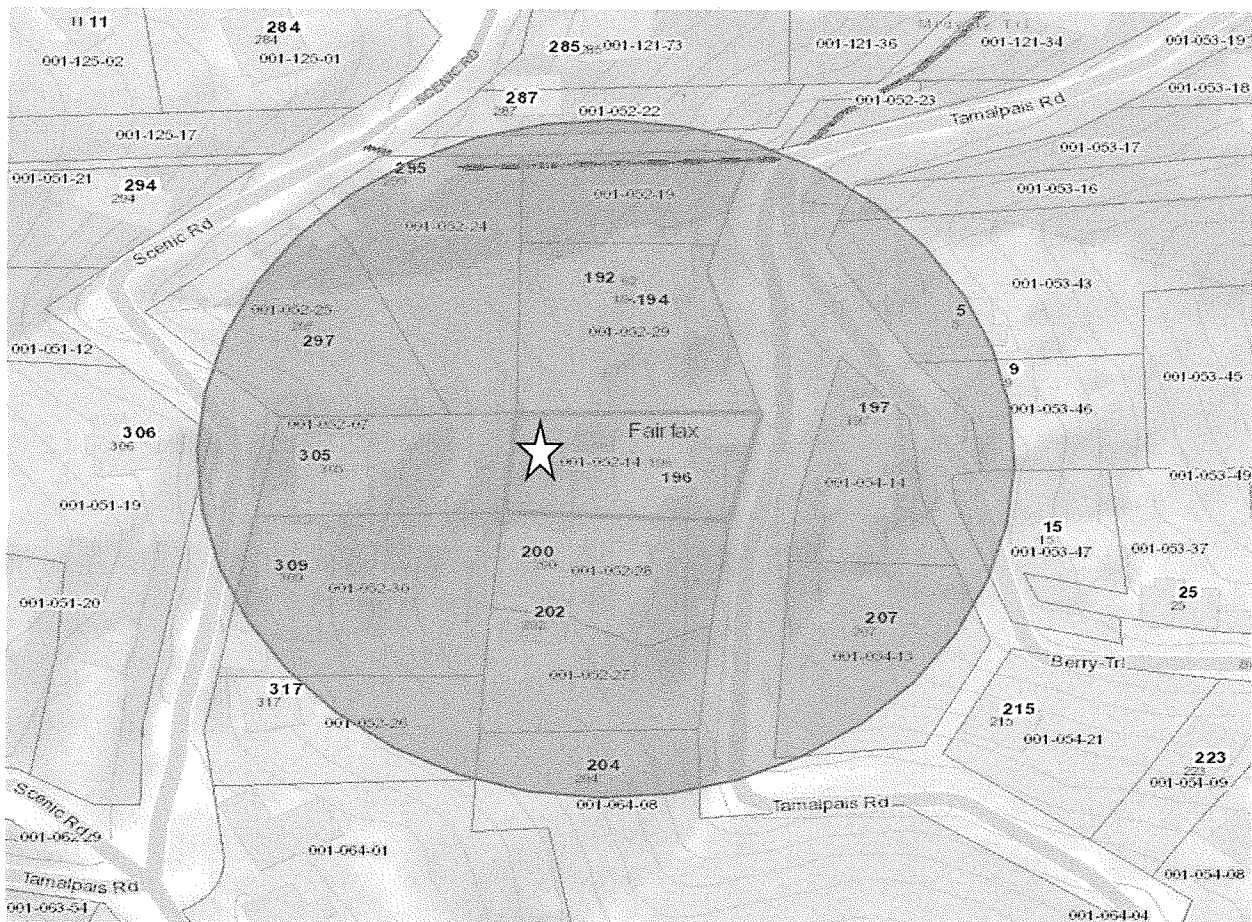


TO:	Fairfax Planning Commission
DATE:	April 26, 2017
FROM:	Michelle Levenson, Zoning Technician
LOCATION:	196 Tamalpais Road.; Assessor's Parcel No. 001-052-14
ZONING:	Residential RS 6 Zone
PROJECT:	Master Bathroom and Closet Addition
ACTION:	Conditional Use Permit; Application # 17-12
APPLICANT:	Leyla Hilmi, Designer
OWNER:	Chris Miller and Robin Goldman
CEQA STATUS:	Categorically exempt, § 15301(a)



BACKGROUND

The project site is 6,780 square feet in area and slopes down to Tamalpais Road at a rate of 39-percent. The site is developed with a 1,529-square-foot, two-story single-family residence containing 3 bedrooms and 2 bathrooms, a 406-square-foot carport, exterior decks including a 225-first-story and 112-square-foot second-story decks(s), and a 502-square-foot patio. The residence was constructed in 1986.

REQUIRED DISCRETIONARY PERMIT

With regard to the RS-6 Zone, Town Code Section 17.080.050 states that, "...a use permit...must be first secured in the RS-6 Zone for any use, occupancy or physical improvement of a building site failing to meet the following requirements:... (C) Building sites having a slope of more than 15 percent shall increase in area above 7,000 square feet, and a minimum width of 65 feet, at a rate of 1,000 square feet of area and three feet of width for each one percent increase in slope..."

The site slope is 39-percent; correspondingly the Town Code requires a minimum buildable area of 31,000 square feet and a minimum width of 137 feet. The project site is 6,780 square feet in area and the minimum width is 55 feet. Because the site does not meet the minimum Code requirements, a Conditional Use Permit (CUP) is required.

DISCUSSION

The proposed project involves converting the second-story exterior deck to a master bathroom and closet. The addition would increase the square footage of the residence by 136 square feet for a total square footage of 1,665 square feet. A total of three new windows are proposed in the addition (northern, eastern and southern sides of the residence). The highest point of the existing residence is 34 feet measured from natural grade, and the addition would reach 28 feet, 6 inches, more than 6 feet below the highest point of the residence.

As indicated above, the property is zoned "Residential RS-6". The project complies with the regulations for the RS-6 Zone as follows:

	Front Setback (ft)	Rear Setback (ft)	Combined Front/rear Setback (ft)	Side Setbacks (ft)	Combined Side Setbacks (ft)	FAR	Lot Coverage	Height
Required/ Permitted	6	12	35	5 & 5	20	.40	.35	35 feet; 3 stories
Existing	0	51	51	14 & 5	19	.22	.28	34 feet; 2 stories
Proposed	No change	No change	No change	No change	No change	.24	.28	No change

The lack of compliance of the existing house with the front and combined setbacks is discussed below.

Conditional Use Permit

The purpose of the CUP process is to allow the proper integration of uses which may only be suitable in certain locations or only if the uses are designed in a particular way [Town Code § 17.032.010(A)]. In consideration of a CUP application, the Commission must make the findings required under Town Code Section 17.032.060 specifically that the granting of a CUP shall (1) not constitute a grant of special privilege or contravene the doctrines of equity and equal treatment; (2) the development and use of the property, as approved under the CUP shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties, cause adverse physical or economic effects or create undue or excessive burdens in the use and enjoyment of neighboring properties; (3) approval of the CUP is not contrary to the goals and standards adopted by the Town; and (4) approval of the CUP will result in equal or better development of the premises that would otherwise be the case and the approval is in the public interest and for the protection or enhancement of the community.

Homes in the immediate area range in size from a 2,006-square-foot, 2-bedroom, 2-bathroom single-family residence on a 5,600-square-foot lot at 197 Tamalpais Road, to a 2,693-square-foot, 3-bedroom, 3-bathroom single-family residence on a 6,223-square-foot lot at 200 Tamalpais Road, to a 3,076-square-foot, 3-bedroom, 4-bathroom single-family residence on a 10,961-square-foot lot at 309 Scenic Road. The proposed project would result in a 1,665-square-foot, 3-bedroom, 3-bathroom residence. The resultant residence would not be out of scale with other neighboring residences on the property, and would afford the occupant(s) similar amenities to those experienced by neighboring residents. Therefore, the proposed project would not constitute a grant of special privilege or contravene the doctrines of equity and equal treatment.

The existing carport and access stairway currently intrude into the required front setback. In addition, the combined side setback requirement is currently not met on the site due to the location of existing structures. The proposed addition would be constructed within the footprint of the existing second-story deck and would not be located in an existing required setback. The addition would be over 21 feet from the northern property line separating the site from the adjacent residence at 192/194 Tamalpais Road and 36 feet from the front property line. Additional windows are proposed on the northern, southern and eastern sides of the residence. Due to the distance of the residence from the neighboring properties at 192/194 and 200 Tamalpais and 305 Scenic the presence of mature vegetation and the site topography, views from the new windows into the neighboring residences would be limited, if not unachievable. Because the project would be located outside of the required setbacks and due to existing site conditions, the project would not result in unreasonable detriment to adjoining properties, consistent with Town Code Section 17.032.010(A)(2), above.

The project would be constructed within the footprint of the residence and would not result in the removal of mature trees in keeping with General Plan Policies LU-7.2.2 and CON-5.2.1 contained in the 2010-2030 Town of Fairfax that state that retention of native vegetation should be encourage. The addition of the bathroom and closet would allow the owners enhanced use of the residence, improving the functionality of the structure. Therefore, the project is consistent with the Town's goals and policies, and would result in equal or better development of the premise, would be in the public interest and would protect and enhance the community.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

1. The property is located within the Wild-land Urban Interface (WUI) of Fairfax. All projects within the WUI area are required to use WUI approved materials or meet minimum design requirements of CBC Chapter 7A or CRC 337.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon monoxide alarms shall be provided in residential buildings and shall be located outside of all sleeping areas.
4. Address numbers at least 4" tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only be a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.
5. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth that may increase the risk of rapid spread of a fire.
6. A Class "A" rated roof assembly is required for the project.

The Marin Municipal Water District (MMWD) Ross Valley Sanitary District and the Fairfax Police, Public Works and Building Departments

The MMWD, Ross Valley Sanitary District, Ross Valley Fire Department, and the Fairfax Police, Public Works and Building Department(s) did not provide conditions of approval or comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve Application No. 17-12 by adopting Resolution No. 17-14, setting forth the findings and conditions for project approval.

ATTACHMENTS

Attachment A – Resolution No. 17-14

RESOLUTION NO. 17-14

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit for the Addition of a Bathroom and Closet at 196 Tamalpais Road

WHEREAS, the Town of Fairfax has received an application to construct a master bathroom and closet addition (a total of 136 square feet) to an existing 1,529-square-foot, 3-bedroom, 2-bathroom single-family residence increasing the living space to 1,665 square feet resulting in a 3-bedroom, 3-bathroom residence.

WHEREAS, the Planning Commission held a duly noticed meeting on April 26, 2017, at which time the Planning Commission determined that the proposed project, as long as the conditions of approval contained within this resolution are met, conforms with the Fairfax General Plan and Zoning Ordinance regulations; and

WHEREAS, based on the plans and other documentary evidence in the record, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project.

WHEREAS, the Commission has made the following findings:

1. The proposed residence conforms to the regulations set forth in the Residential Single-family RS 6 Zone District.
2. The proposed development does not change the single-family residential character of the neighborhood. Houses in the immediate neighborhood on similarly sized, sloped lots range in size from a 2,006-square-foot, 2-bedroom, 2-bathroom single-family residence on a 5,600-square-foot lot at 197 Tamalpais Road, to a 2,693-square-foot, 3-bedroom, 3-bathroom single-family residence on a 6,223-square-foot lot at 200 Tamalpais Road. Therefore, the proposed 1,665-square-foot, 3-bedroom, 3-bathroom residence on the 6,780-square-foot site is not out of scale with the property or with other residential structures in the neighborhood.
3. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area.
4. The project results in a remodeled structure that maintains the required setbacks, height- floor area ratio and lot coverage percentage(s). Therefore, 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.
5. The development and use of property as approved under the use permit will not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which

effects are substantially beyond that which might occur without approval or issuance of the use permit.

6. The use permit as conditioned herein will not be contrary to those objectives, goals or standards pertinent to the particular case and contained in the 2010 – 2030 Fairfax General Plan or set forth in the Town Code.
7. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case and is in compliance with the Fairfax General Plan, Zoning Ordinance, accepted engineering techniques and the Uniform Building Code.

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

1. This approval is limited to the development illustrated on the plans prepared by Leyla Hilmi Design, entitled, "196 Tamalpais Road", Sheets A0.0 through A2.1, dated January 6, 2017, and received on January 19, 2017.
2. Secure written approval from the Ross Valley Fire Department, Marin Municipal Water District and the Ross Valley Sanitary District noting that the development conforms with all of their recommendations and conditions.
3. All construction-related vehicles including equipment delivery, supply delivery and cement trucks, as well as all construction material shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
4. 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.
5. The following Best Management Practices shall be employed:
 - a. The roadways shall be kept free of dust, gravel and other construction materials by sweeping these areas, daily, if necessary.
 - b. Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.
6. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application No. 17-12. Any construction based on job plans that have been altered without the benefit of an approved modification of Application No. 17-12 will result in the job being immediately stopped and red tagged.

7. Any damages to Tamalpais Road or other public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

8. 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, Planning Director, Design Review Board 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.

9. 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 following: Noise Control, 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.

10. The applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department. Other agency conditions can be waived by those agencies in writing to the Town Building Department.

11. Other agency/department conditions can be waived by that agency/department in writing to the Fairfax Planning and Building Services Department.

Ross Valley Fire Department (RVFD)

1. The property is located within the Wild-land Urban Interface (WUI) of Fairfax. All projects within the WUI area are required to use WUI approved materials or meet minimum design requirements of CBC Chapter 7A or CRC 337.

2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon monoxide alarms shall be provided in residential buildings and shall be located outside of all sleeping areas.
4. Address numbers at least 4" tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.
5. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth that may increase the risk of rapid spread of a fire.
6. A Class "A" rated roof assembly is required for the project.

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

- The approval of the Conditional Use Permit is in conformance with the 2010 – 2030 Fairfax General Plan 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 26th day of April, in the Year 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Norma Fragoso

Attest:

Linda Neal, Principle Planner