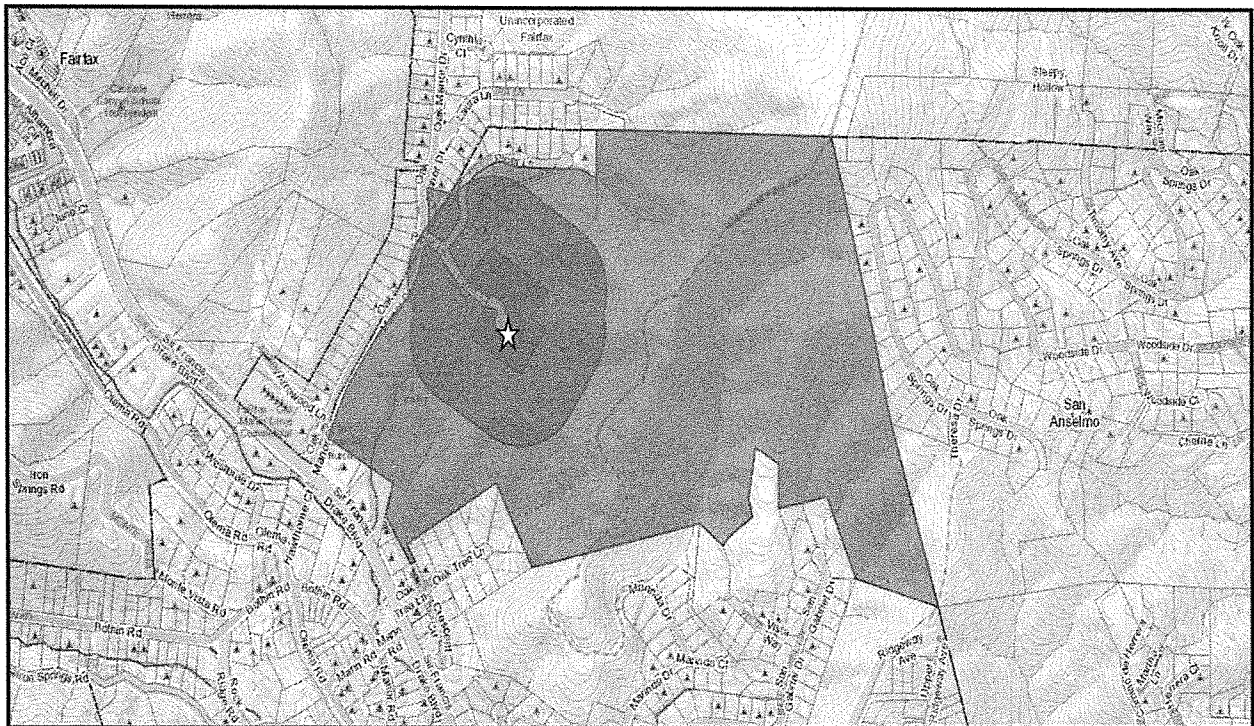


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: April 26, 2017
FROM: Linda Neal, Principal Planner
LOCATION: 101 – 191 Piper Court; Assessor's Parcel No. 001-150-41
ZONING: Multiple Family RM Zone
PROJECT: Exterior changes and addition
ACTION: Design Review, Parking and Side-yard Setback Variances and an Encroachment Permit; Application # 17-15
APPLICANT: TWM Architects and Planners
OWNER: EAH Housing
CEQA STATUS: CEQA categorically exempt, § 15301(a) and (e)(1)



101 – 191 PIPER COURT

BACKGROUND

The 116,817-square-foot, irregularly shaped, site is level at the street frontage but slopes up steeply at an average rate of 42% behind the nine, multiple unit buildings of this housing complex. The nine buildings, containing three units each and covered parking for 3 vehicles with 3 additional parking spaces in tandem with the garage spaces, were constructed in 1962. At that time, the parking met the Town parking requirements which only required 2 spaces per unit, allowed the spaces to be tandem and had no requirement for the provision of guest parking.

There was a slide between buildings 6 and 7 in the winter of 2014 (units 161 through 177). The permit to repair that slide was issued in July of 2015 and the stabilization work has been completed.

DISCUSSION

The project proposal includes the following:

1. Removal and replacement of all windows, exterior siding, doors, roofing gutters while also adding new shear support to the buildings.
2. Removal of all rear stairs, upper floor rear doors and concrete patios replacing them with new exterior patios (the second floor units would still have access to semi-private usable outdoor space on the side decks). New rear patios would be constructed.
3. Removal and reconfiguration of the front entry stairs and relocation of the front doors to include a covered porch entry to meet current building code requirements.
4. Removal of the pool, pool patio and fencing including the portions of the patio and supporting retaining wall that encroach into the Town right-of-way.
5. Construction of a 481-square-foot addition on the north side of building 9 to provide a covered outdoor area to consolidate the mailboxes for all the unit and provide a manager's office, bathroom and a laundry facility for the complex. A shared patio space would be created adjacent to the addition where the pool and pool patio currently are.
6. The dividing wall that currently exists between the northern two parking spaces of the three car garage in building 9 would be removed to accommodate a required accessible parking stall in close proximity to the manager's off/laundry/mailbox area. The installation of this required accessible parking space would eliminate one of the on-site parking spaces reducing the available parking on the site from 54 spaces to 53 spaces.

7. A trellis would be built over the garage door of each building's center garage.
8. The wooden deck railings will be replaced the hog wire and post railings.
9. The rear patio areas would be fenced with hog wire and post fences to match the hog wire used for the new access stair and deck railings.
10. New concrete access paths and garbage/recycling enclosures will be installed adjacent to each building.
11. New landscaping will be installed throughout the complex including in the vacated area of the public roadway easement that used to be captured by the complex fence and a small portion of the pool patio.
12. The refurbishment efforts would also include the construction of 2 ½ foot wooden retaining wall with a concrete drainage swale at the top of the site behind buildings 1, 2 and 3, and 4 connecting to a new drop inlet and then to the storm drain in the street. Earthen swales will be graded behind buildings 6, 7, 8 and 9 to direct water to an energy dissipater behind building 9. Another dissipater at the southwest corner of building 9 will collect run-off from the driveway to building 9 run it underneath the yard area between buildings 8 and 9 to another dissipater at the southwest corner of building 9. The wall and patios that are a part of this project are subject to the Design Review process. The proposed drainage improvements are not subject to the design review process and the grading to create the new drainage improvements does not require Planning Commission approval because it does not exceed 100-cubic-yards, the amount required for Commission approval to become necessary per Town Code §12.20.080.

The project would comply with the regulations of the Multiple Family RM Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	10 ft.	10 ft.	40 ft.	10 ft. & 10 ft.	25 ft.	.40	.35	28.5 ft., 3 stories
Existing	0 ft.	31 ft.	31 ft.	10 ft. & 14 ft.	24 ft.	.28	.13	19.5 ft, 2 stories
Proposed	No change	No change	No change	12.5 ft. & 14 ft.	26.5 ft.	.29	.14	No Change

Discretionary Permits

The project requires the approval of the following discretionary permits:

Design Review Permit – Town Code § 17.020.030(B) requires that new construction in the Multiple Family RM Zone District are subject to the approval of a Design Review Permit by the Planning Commission. The Commission must apply the design review criteria contained in Town Code § 17.020.040 to a project in order to approve a design review permit for the proposal.

All the proposed changes described above will refresh the appearance of this dated 1962 residential development, improve the pedestrian circulation throughout the complex and provide improved public and private outdoor spaces for the tenants.

The articulation of the building facades will be improved through the addition of the entry stair porch covers and the arbor details over the middle garage spaces.

The new landscaping and garbage/recycling enclosure will improve street-view of the complex.

The new siding will be of hardie shingle painted an olive green color (Kelly Moore, Villita 196), with hardie trim board painted a grey-green color (Kelly Moore Graystone 230) and accents in a brownish-green color (Kelly Moore Hiking Boots 5762). The windows will be

Encroachment Permit – Town Code § 12.32.010(A) requires that an Encroachment Permit be obtained from the Planning Commission prior to erecting any structures within the public right-of-way.

The project while removing the pool fence and patio from the Piper Court right-of-way, would still require the construction of a portion of the new access stairway to building 9, an accessible ramp and a new mail kiosk within the easement. These improvements require the approval of an encroachment permit.

Side-yard Setback Variance – Town Code § 17.088.070(B) requires the developments in the RM Zone maintain minimum side-yard setbacks of 10-feet and a combined side-yard setback of 25-feet. A 16.5-square-foot portion of the northwest corner of the office/laundry addition will encroach an additional 3-feet into the 12.5-foot side yard setback currently maintained by the existing building. This results in the minimum western side-yard setback being only 9.5-feet while the code requires a minimum 10-foot side-yard setback and results in a combined side-yard setback of 23.5-feet while the code requires a combined side-yard setback of 25-feet.

In order to approve a variance the Commission must be able to make the following required findings contained Town Code § 17.028.070 as follows:

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.
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.
3. The strict application of this title would result in excessive or unreasonable hardship.
4. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

The irregular shape of the parcel and the location of the existing buildings are the special circumstances that result in the need for the Variance. The small portion of the addition that encroaches into the minimum and combined side-yard setback is adjacent to the Manor Elementary School site with the nearest school building located 120-feet away. Therefore, the granting of the variance will have no negative impact on the adjacent property. The strict application of the setback regulations would eliminate the owner's ability to provide a reasonable sized office/bathroom and communal laundry room for this affordable housing complex.

Parking Variance

The project includes the elimination of one of the 54 on-site parking spaces to provide an accessible parking space required by the American's with Disabilities Act within a portion of the garage for building 9. The only other place an accessible parking space could be located would be in the place of the outdoor communal patio on the north side of building 9. Eliminating 1 parking space in order to retain usable outdoor space for the entire complex and in order to provide an ADA compliant parking space will benefit the all the residents.

In order to approve a parking variance the Commission must be able to make the required findings:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulation.
2. Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.

3. Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

All of the above findings can be made about the project site and the granting of the variance will enable the property to be brought into compliance with ADA regulations while still providing a shared outdoor living area to replace the swimming pool.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. 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. The systems shall be monitored by a UL Listed Central Station alarm company. The fire alarm system shall consist of sprinkler system monitoring with occupant notification.
2. The property is located within the Wildland Urban Interface Area for Fairfax and the new construction must comply with Chapter 7A of the California Building Code or equivalent.
3. All smoke detectors in the apartments shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.
4. Carbon monoxide alarms shall be provided in existing apartments when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
5. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in 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.
6. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.

7. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

8. The roadway serving this property is a dedicated fire lane. Fire lanes shall be marked in accordance with RVFD Standard # 204. Ross Valley Fire shall verify compliance with this condition prior to the project final inspection.

Marin Municipal Water District

1. A high pressure water service permit is required for this project.
2. The plans must comply with all the indoor and outdoor requirements of District Code Title 13, Water Conservation. Plans must be submitted to the District and be approved.
3. The District's backflow prevention requirements must be met and if installation of a backflow device is required, the device shall be tested/inspected and be approved by a District Inspector prior to the project final inspection and issuance of the occupancy permit.
4. Comply with Ordinance No. 429, requiring the installation of gray water recycling systems, when practicable, for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.

Ross Valley Sanitary District

1. A Sanitary District sewer connection permit is required to either replace the existing sewer lateral, or demonstrate to a District Inspector that the existing lateral meets current requirements, prior to the project final inspection and issuance of an occupancy permit for the residence.

RECOMMENDATION

1. Conduct the public hearing.
2. Move the approve application # 17-15 by adopting Resolution No. 17-18, setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A – Resolution No. 17-18

RESOLUTION NO. 17-17

A Resolution of the Fairfax Planning Commission Approving Design Review and Encroachment Permits and Side-yard Setback and Parking Variances for Application 17-15, to Allow Exterior Changes to the Piper Court Apartments at 101 through 191 Piper Court

WHEREAS, the Town of Fairfax has received an application to make exterior upgrades to the 9 building, multiple-family apartment complex; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 26, 2017, at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the project ; and

WHEREAS, based on the plans and supplemental information provided by the applicant as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary permits; and

WHEREAS, the Commission has made the following findings:

The proposal complies Fairfax General Plan Goals and Objectives as follows:

Policy LU-1.2.3: New and Renewed development shall be designed and located to as to minimize 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-7.1.5.1: New and renewed residential development shall preserve and enhance the character of the Town's neighborhoods in diversity, architectural character, size and mass.

The proposal complies with the Zoning Ordinance and Building Code as follows:

The development complies with the required front and rear setbacks, height limit, floor area ratio and lot coverage limitations and the minimum and combined side-yard setbacks being proposed meet the intent of the side-yard setback requirement.

The granting of the parking variance to reduce the number of on-site parking spaces from 54 to 53 to accommodate an accessible parking space will enable the owners to bring the property into compliance with require ADA regulations.

The irregular shape and steep slope of the rear of the property are the special circumstances applicable to the property that warrant the granting of the side set-back variance.

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.

The strict application of this title would result in excessive or unreasonable hardship.

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

Neither present nor anticipated future traffic volumes generated by the proposed remodeling project will result use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulation.

Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.

Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

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

1. The project approval is limited to the changes depicted on the plans by TWM Architects and Planners, dated 1/4/17 pages A1 through A21, the site topography map by Paul M. Brown, Land Surveyor, page 1, the engineering pages C2.0, C2.1, C2.2, by David Brown, Civil Engineer, dated 12/13/16, the landscaping plan pages DR-1 and DR-2 by Pederson Associates Landscape Architects, dated 2/9/17 and the color board, page CB dated 1/4/17.
2. Prior to issuance of a building permit the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents
 - Emergency access **routes**
 - b. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director/ the Public Works Director can waive this requirement).

- c. Submit a bond to the Town in an amount that will cover the cost of grading, weatheri weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit or letter of credit equaling 100% of the estimated construction costs and pay for the Town Engineer's time to review and confirm the contractor's estimate
 - d. The applicant shall submit a cash deposit to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation prior to issuance of a building permit. The amount shall be retained for 18 months after issuance of the Certificate of Occupancy.
 - h. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
3. Prior to the concrete form inspection by the building official, the geotechnical and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans. The building official shall field check the concrete forms prior to the pour.
4. All construction related vehicles including equipment delivery, cement trucks and construction materials 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.
5. Additionally, 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.
6. 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.
7. Prior to issuance of an occupancy permit the Planning Department shall field check the completed project to verify that all design review and planning commission conditions have been complied with including installation of landscaping and irrigation.

8. Excavation shall not occur between October 1st and April 15st. The Town Engineer has the authority to waive this condition depending upon the weather.

9. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.

10. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 637 (Chapter 8.32 of the Town Code), "Urban Runoff Pollution Prevention".

8. Notwithstanding section # 17.072.050 of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Permit 17-15. Any construction based on job plans that have been altered without the benefit of an approved modification of Permit 17-15 will result in the job being immediately stopped and red tagged.

9. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.

10. The applicants shall maintain the premises in a neat and attractive manner at all times once the project is completed. Such maintenance shall include, but not be limited to, exterior building materials, , windows, the planter beds, the ground and the pavement surfaces.

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.

12. 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.

13. The project final inspection and issuance of the occupancy permit shall not occur until all the building improvements have been completed and all the conditions of approval for the commenting agencies have been met and confirmed in writing from all the agencies with jurisdiction over the project.

Ross Valley Fire Department

1. 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. The systems shall be monitored by a UL Listed Central Station alarm company. The fire alarm system shall consist of sprinkler system monitoring with occupant notification.

2. The property is located within the Wildland Urban Interface Area for Fairfax and the new construction must comply with Chapter 7A of the California Building Code or equivalent.

3. All smoke detectors in the apartments shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.

4. Carbon monoxide alarms shall be provided in existing apartments when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.

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6. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.

7. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
8. The roadway serving this property is a dedicated fire lane. Fire lanes shall be marked in accordance with RVFD Standard # 204. Ross Valley Fire shall verify compliance with this condition prior to the project final inspection.

Marin Municipal Water District

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2. The plans must comply with all the indoor and outdoor requirements of District Code Title 13, Water Conservation. Plans must be submitted to the District and be approved.
3. The District's backflow prevention requirements must be met and if installation of a backflow device is required, the device shall be tested/inspected and be approved by a District Inspector prior to the project final inspection and issuance of the occupancy permit.
4. Comply with Ordinance No. 429, requiring the installation of gray water recycling systems, when practicable, for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.

Ross Valley Sanitary District

1. A Sanitary District sewer connection permit is required to either replace the existing sewer lateral, or demonstrate to a District Inspector that the existing lateral meets current requirements, prior to the project final inspection and issuance of an occupancy permit for the residence.

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

The approval of 17-15 can occur without causing significant impacts on neighboring residences and the adjacent school property; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 26th day of March, 2017, by the following vote:

AYES:

NOES:

ABSENT:

Norma Fragoso, Chair

Attest: _____
Linda Neal, Principal Planner

