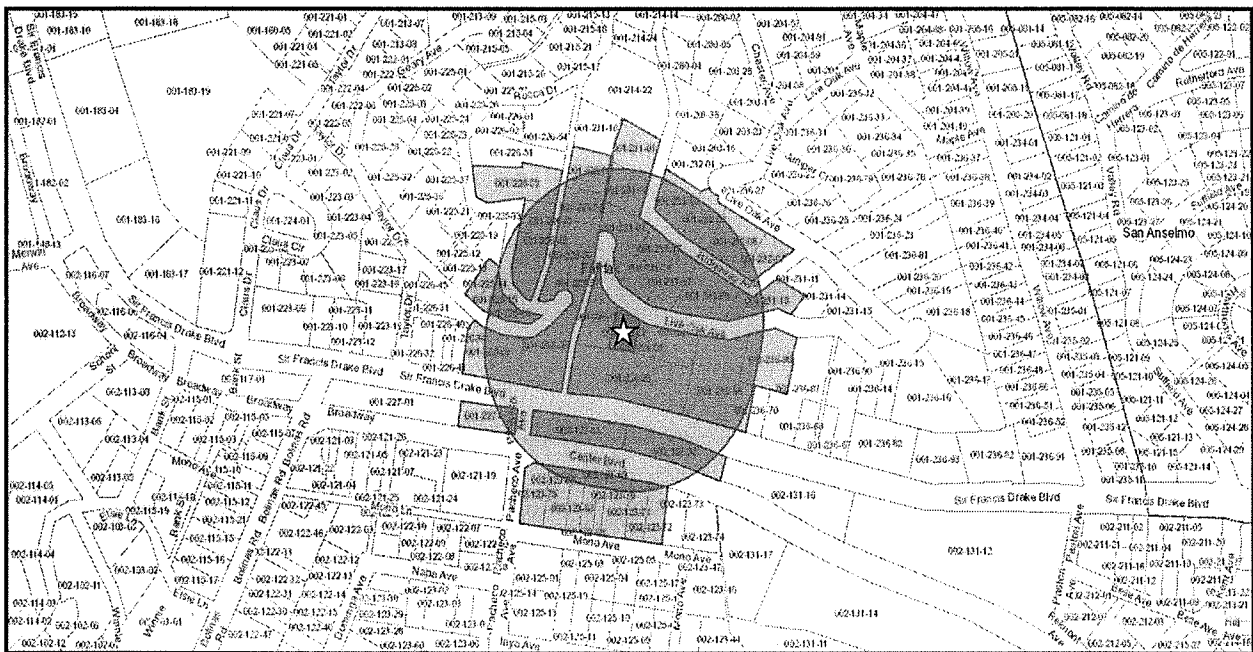


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: November 15, 2018
FROM: Linda Neal, Principal Planner
LOCATION: 119 Live Oak Avenue; Assessor's Parcel No. 001-236-04
ZONING: Residential RD 5.5-7 Zone
PROJECT: Stairway/landing addition
ACTION: Use Permit; Application # 18-19
APPLICANT: Darold Petty
OWNER: Steve and Susan Scott
CEQA STATUS: Categorically exempt, § 15301(a) and (f)



119 LIVE OAK AVENUE

BACKGROUND

The site slopes down from Live Oak Avenue at an average rate of 51% and is developed with a 1,899 square-foot, 2 bedroom, 1 bathroom, single-family residence that was built in 1962. The residence has a 2 car parking deck attached to the front of the structure.

DISCUSSION

The project encompasses the construction of 95 square feet of exterior stairway and landing from the first floor rear deck down the west side of the house to access the mechanical equipment/storage area in the crawlspace of the residence. The stairway is necessary because the steep slope of the site makes it unsafe to access the equipment underneath the residence by climbing down the steep slope on the west side of the property. The stairway will provide safe access path to the storage/mechanical room.

The proposed complies with the Residential RD 5.5-7 Zone District requirements as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	10 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 feet, 3 stories
Existing	0 ft.	29 ft.	29 ft.	16 ft. & 8 ft.	24 ft.	.36	.20	38 ft., 2 stories
Proposed	no change	no change	no change	no change	no change	no change	.22	no change

The project does not require the approval of any variances.

Use Permit

Town Code § 17.084.050 requires that a Use Permit be obtained from the Planning Commission prior to physical improvement of any site or structure failing to meet the minimum size or width requirements based on the site average slope. The project site has an average slope of 51% and Town Code § 17.084.050(c) requires that a property with a 51% slope be 43,000 square-feet in size and 173 feet wide. The site is only 5,180 square-feet in size and 75 feet wide so the stairway/landing addition requires the approval of a Use Permit by the Planning Commission.

The purpose of the Use Permit process is to ensure the integration into the Town and a neighborhood of uses which may only be suitable in certain locations or only if the uses are designed in a particular manner. In reviewing a use permit application the

Commission should analyze the surrounding sites and neighborhood and give due regard to their orientation and use to ensure that the public health, safety and welfare are protected.

The proposed access stairway will not change the residential character of the property nor will the addition project into any required minimum or combined setback and it also will not result in the lot coverage or floor area ration calculations exceeding the 35% and 40% respective maximums. The stairway addition will maintain over a 31-foot setback from the nearest neighboring structure at 125 Live Oak Avenue, where the only windows are into the garage, and the rear deck (outdoor living space) is 42 feet away from the proposed stairway addition.

The addition will not result in the removal of any trees and will result only minor disturbances to the site, so it will not have any substantial impact on the site or the surrounding neighborhood.

Also, as pointed out by the applicant in his supplemental written information, the stairway will provide an additional egress for residents of the structure if a fire blocks egress from the front of the residence.

The stairway/landing will be constructed to match the rear exterior deck.

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows: All vegetation and construction materials are to be maintained away from the residence during construction and this must be noted on the building permit plans submitted for fire review, smoke and carbon monoxide detectors shall be installed throughout the entire building, address numbers shall be installed that are at least 4 " tall, visible from the street, and internally illuminated or of reflective material or placed near a light.

Marin Municipal Water District

Marin Municipal Water District submitted written requirements which have been incorporated into the condition of approval in the attached resolution and are summarized as follows: Compliance with all indoor and outdoor requirements of District Code 13 – Water Conservation is a condition of water service and if backflow protection is required it shall be installed as a condition of water service.

Building Department

The applicant must obtain a building permit prior to start of construction on the stairway.

The Ross Valley Sanitary District and Fairfax Public Works Department did not comment on the project.

RECOMMENDATION

Conduct the public hearing.

Move to approve application # 18-19 by adopting attached Resolution No. 2018-20 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 2018-20

Attachment B - similar stairways in the neighborhood and project site photos

Attachment C - Applicant's supplemental information statement

RESOLUTION NO. 2018-20

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow Installation of a Stairway and Landing to Provide Access to a Mechanical/Storage Area in the Crawlspace of an Existing Single-family Residence at 119 Live Oak Avenue

WHEREAS, the Town of Fairfax has received an application for a Use Permit to add a 95 square-foot stairway landing on the west side of an existing 1,899 square-foot residence at 119 Live Oak Avenue; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on November 15, 2018, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant, 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 Conditional Use Permit as long as certain conditions, as listed below, are met; and

WHEREAS, the Commission has made the following findings:

The project complies with the following 2010-2030 Fairfax General Plan policies:

Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass.

Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

The project complies with the following Conditional Use Permit Findings (Town Code § 17.032.060):

1. The proposed stairway/landing does not project out from the structure any further than the first floor deck and maintains a setback of 31 feet from the nearest residential structure at 125 Live Oak . 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.
2. The residence will continue to maintain the required minimum setbacks, and Floor Area Ratio and Lot Coverage limitation(s) with construction of the stairway/landing addition. Therefore, the development and use of the property as approved under the use permit shall 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.

3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case. Therefore, the project is in the public interest and will enhance the general health, safety and welfare of the community.

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 Surane Gunasekara dated 6/1/18, pages A-1 and A-2. The Planning Director shall have the authority to approve minor modifications to the plans as long as they are consistent with the approval and have no impacts.
2. During the construction process, all construction-related vehicles including fixture/supply or 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.
3. 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.
4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
5. The Planning Department shall field check the completed project to verify compliance with all Planning Commission conditions.
6. The roadways shall be kept clean and the site free of dust, by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
7. During construction, the developer and all employees, contractors and subcontractors must comply with all requirements set forth in Town Code Chapter 8.32, Urban Run-off Pollution Prevention.

8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 18-19 or the approval of the Planning Director if the changes are minor and do not conflict with the intent of this use permit approval. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 18-15, or without the approval of the Planning Director, will result in the job being immediately stopped and red tagged.
9. 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.

Ross Valley Fire Department

10. 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, and shall be identified on plans submitted for construction permits.
11. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alteration, repairs or additions that exceed \$1,000. Carbon monoxide alarms shall be located outside each dwelling unit sleeping area, in the immediate vicinity of bedroom(s) and on every level of a dwelling unit including basements, and shall be identified on plans submitted for construction permits.

12. 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 are required. Residential numbers must be internally illuminated, placed next to a light, or be reflective numbers.
13. Vegetation and construction debris are to be maintained clear of construction site.

Marin Municipal Water District

14. Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation, is a condition of water service.
15. If backflow protection is not already installed, it shall be installed as a condition of water service.
16. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
17. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing. '
18. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.

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

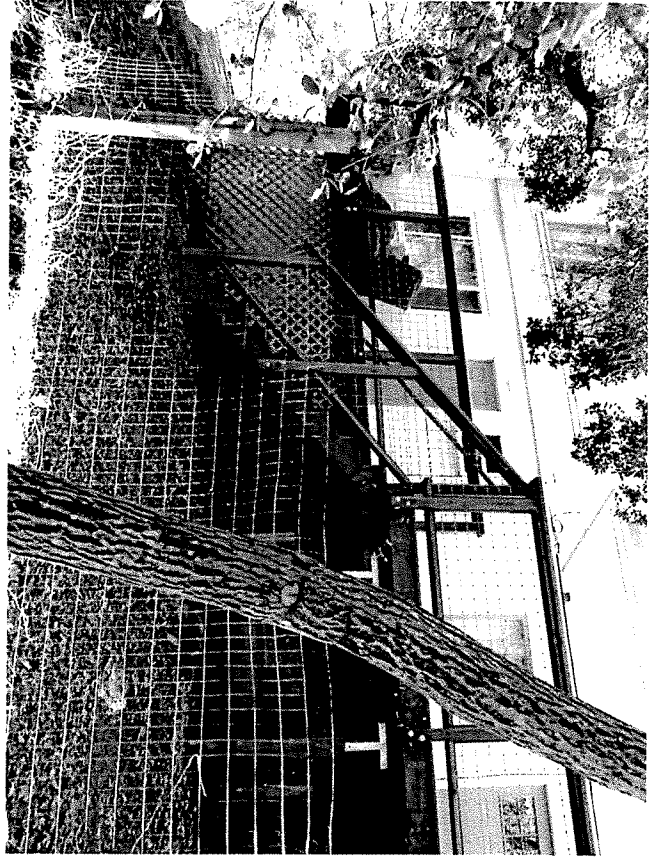
The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring residences.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 15th, day of November 2018, by the following vote:

AYES:
NOES:
ABSTAIN:

Chair, Mimi Newton

Attest:



September 19, 2018

This application concerns the proposed exterior staircase at 119 Live Oak Avenue, Fairfax, CA, 94930.

This staircase will connect the existing , lower deck to the storage/mechanical room. At present residents must access this room by walking around the home perimeter on the 50% hillside slope. It will enhance personal safety by providing a built staircase to the storage/mechanical room, rather than the unstable footing now in use. This staircase also will improve the emergency means of egress from the lower story sleeping rooms by providing a closer egress than the current condition.


Work to construct this staircase will occur from 9:00 AM to 5:00PM, Monday through Friday, only. All the work will be performed by myself, Darold Petty.

This staircase will have no negative effect on any adjacent property, as it is solely within the existing, exterior envelope delineated by the deck posts. (see photos).

The storage/ mechanical room is used only for those purposes and will never be an occupied room.

I request that this staircase be approved based on equal treatment of similar properties in town.

Please refer to the photos, the brown staircase is at # 1 Live Oak Avenue, and the white staircase is at # 113 Live Oak Avenue. The third photo is the front elevation of # 119 Live Oak Avenue, and the fourth photo shows the proposed staircase location. Thank you.



Darold Petty

September 19, 2018