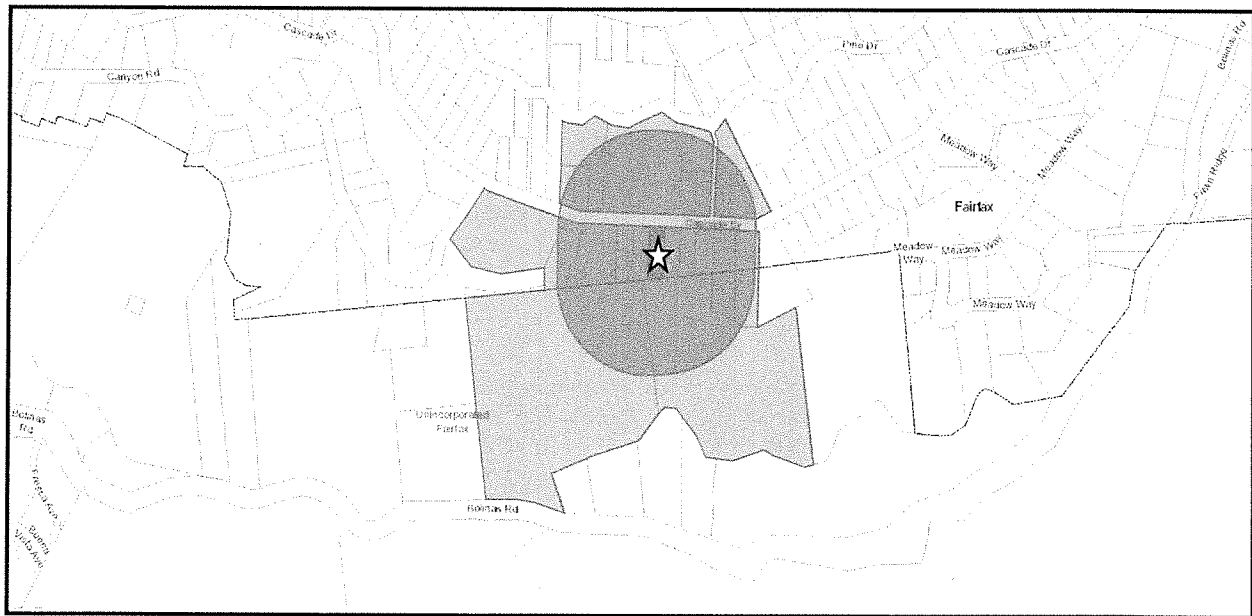


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: December 20, 2018
FROM: Ben Berto, Director of Planning and Building
LOCATION: 407 Cascade Drive; Assessor's Parcel No. 003-044-09
ZONING: Residential Single-family RS-6 Zone
PROJECT: Construction of a new single-family residence
ACTION: Use Permit and Design Review Permit; Application # 18-21
APPLICANTS/OWNERS: Shawn and Allison Madden
CEQA STATUS: Categorically exempt, §15303



407 CASCADE DRIVE

BACKGROUND

The 6,362 square-foot vacant lot was previously the site of a single family residence. Owing to numerous illegal additions (including development off the rear of the property on the streambank) and the generally dilapidated condition of the prior residence, the new owners decided to demolish the existing structures and propose a new single family residence on the currently now vacant parcel. The parcel itself is mostly level,

gently downsloping until the rear of the property, close to San Anselmo Creek located just beyond the south property line of the parcel.

Design Review is required for a new residence, and a Use Permit is required since the 55' lot width falls below the 60' minimum lot width for the RS-6 Zoning District.

The application was heard by the Commission on November 15 and continued to allow redesign of the project.

DISCUSSION

Since the November meeting, the applicants have modified the proposed residence in the following ways: the design is still 2-story, 3-bedroom, 2½ bath, but the size has been reduced by 195 square feet to 2,200 square feet. The attached garage has been reduced 30 square feet to 500 square feet, for a total net building area of 2,200 square feet, on a level 6,362 square-foot vacant lot. The maximum height of the building has been reduced by 1'9" to 26 feet, 9 inches. The front of the residence has been articulated by creating a lower gable roof section over the front bedroom, the ridge of which is 4 feet, six inches lower than the maximum building height. The building has also been reduced in width by a foot, providing the neighbor to the west at 411 Cascade with an additional foot of setback (for a total west side setback of 7 feet, six inches). The 9-foot west side setback remains unchanged, for a 16½-foot combined side yard setback. The rear yard setback has been increased by approximately 2 feet, to approximately 31 feet.

The depth of the second floor of the house has also been reduced, with the reduction coming from shifting in the rear of the second floor of the house 2 feet, 9 inches. A reduction in the area of the rear deck has also occurred, with the dimensions reduced to 22' 3 ½" wide x 8' 4 ½" deep, from 10 feet deep.

The new building will be constructed with WUI-compliant materials including Hardie-plank board and batten siding, asphalt composition shingle roofing, Ipe wood decking, and fiberglass-framed windows. Color and materials remain unchanged, with trim and siding proposed to be offwhite, black window frames, dark grey roofing, a gravel driveway, and india bluestone entry pavers.

Two fruit trees located within the footprint of the proposed house are proposed to be removed.

Although the rear property line of 407 Cascade stops at the top of the creek bank, it is unlikely that the owner of the creek property to the south would ever propose any development of the creek area due to the Department of Fish and Wildlife and Town of Fairfax creek setback regulations.

The proposed project complies with the Residential RS-6 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.	6 ft.	25 ft.	5 ft. & 5 ft.	15 ft.	.40	.35	28.5 ft., 2 stories
Proposed	40 ft.	Approx. 32 ft.	Approx. 72 ft.	7.5 ft. & 9 ft.	16.5 ft.	.35	.33	26.75 ft., 2 stories

Discretionary Permits

Design Review Permit

Town Code § 17.020.030(A) requires Design Review Permit approval from the Planning Commission prior to the physical improvement of any undeveloped site.

The residence continues to be relatively large for the neighborhood. However, all of the changes the applicants have made substantially improve its harmoniousness with other residences in the area. The additional articulation in the front, with two offset gable roof sections, substantially reduce street-facing boxiness. Similarly, the reduction in overall building height brings the maximum height and eave height close to those of its westerly neighbor. The west side setbacks exceed those of the west neighbor. The side fenestration of the two houses, where they align, are not a critical issue as the west neighbor's are pass-through windows on the stairway.

The easterly residential structure may be more of an issue with respect to relative building mass and bulk. Staff does not believe that light is too much of a problem, insofar as in the dead of winter the sun disappears behind the ridge to the south by mid-afternoon, before the proposed residence would cast additional shade on the east neighbor. In summer, the large valley oaks at 411 Cascade would also provide somewhat equivalent late afternoon shading as the proposed residence.

Staff continues to recommend that the overall building height be reduced by an additional foot (for a total reduction from the original design of approximately 3 feet).

The house also continues to be the largest in the vicinity among equivalently sized properties in terms of both square footage and Floor Area Ratio (FAR, see chart below).

If the Planning Commission believes that additional square footage reductions are warranted, they should so direct the applicant. One way that this could be

accomplished would be by stepping the east side of the second floor in from the first floor, perhaps in front and behind the stairway area. This would also reduce the overall ridge and building height (less width with a sloped roof equals less height), and create more openness and light for the easterly neighbor.

Another potential issue for discussion concerns the second-story, rear-facing deck. The next-door neighbor at 411 Cascade noted potential rear yard privacy concerns. While the Pittosporum hedge on the shared property line will provide some screening, another option for consideration would be to require installation of a 6-foot solid wall on the west side of the deck.

The last recommended change is to include a medium height tree in the front yard area, to further soften the visual impact of the front façade. The applicant has indicated a desire to garden portions of the front yard. The tree could be a fruit tree to provide edible landscaping.

The table below provides a summary of lot sizes and slopes, as well as residence sizes, for homes in the immediate area.

407 Cascade Drive – COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
003-043-12	430 Cascade	6650	1968	2	2	280	.30
003-043-13	432 Cascade	6100	840	2	1	216	.14
003-043-14	434 Cascade	6500	1128	2	2	0	.17
003-043-15	444 Cascade	8100	1214	3	1.5	670	.17
003-043-16	402 Cascade	6800	1242	2	1	945	.24
003-043-17	396 Cascade	6800	1093	3	1	400	.16
003-044-09	407 Cascade	6350	730	2	1	0	.11
003-044-10	403 Cascade	6000	1214	4	1	0	.20
003-044-17	415 Cascade	7000	1028	3	2	240	.15
003-044-21	419 Cascade	7975	1719	3	2	389	.22
003-101-19	370 Cascade	6000	1354	2	1	548	.23
003-101-20	378 Cascade	5890	1290	2	1	364	.22
003-101-22	388 Cascade	6800	912	3	2	600	.15
003-102-01	397 Cascade	6720	1066	2	1	400	.16
003-044-08	411 Cascade	6650	2,211	3	2.5	504	.33
PROJECT SITE - PROPOSED							
003-043-08	407 Cascade	6362	2200	3	2.5	500	.35

Note that for some of the properties FAR calculations include garage area in excess of 500 square-feet as required in Town Code § 17.008.020, Definition of Floor Area.

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

is 50 feet wide with an average slope of less than 10 feet, while Town Code § 17.080.050 requires that such a property have a 60 foot minimum width.

The purpose of the Use Permit process is to ensure the integration into the Town and a neighborhood of uses in this case which 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 the project's design and orientation to ensure that the public health, safety and welfare are protected.

The proposed residential use is consistent with underlying zoning standards such as setback, size, and height. The residence is also a distinct improvement over prior development on (and even off) the site. The residence will only result in the removal of two small, non-native trees. Overall grading or other site disturbance is modest.

As noted above in the Design Review discussion, the applicants have made noticeable improvements to their project. The Planning Commission should direct the applicant (and staff) on whether these are adequate, and if not, what additional reductions (and where) are desired.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department, Fairfax Police and Building Departments, Marin Municipal Water District and Ross Valley Sanitary District

Ross Valley Fire Department is requiring a separate Vegetation Management Plan for the project. Discussions with the Fire Inspector indicate that preservation of the Pittosporum hedge on the project site's west side property line is acceptable, provided that the hedge is discontinuous. The plans have been modified to reflect that change. Resolution approving the project - Resolution No. 2018-022 (Exhibit A – attached).

MMWD has indicated that they will continue to provide water service to the site. No other agencies responded which is not surprising since the site has been previously developed.

RECOMMENDATION

1. Conduct the public hearing on the project.
2. Take one of three actions:
 - a. Move to approve application # 18-21 by adopting attached Resolution No. 2018-22 setting forth the findings and conditions of approval for the amended project.
 - b. Make amendments to the project via conditions of approval and move to approve application # 18-21 by adopting amended Resolution No. 2018-22 setting forth the findings and conditions of approval for the amended project.

- c. Direct the applicant on what additional refinements and reductions to the residence are necessary, and continue the item. Insofar as the applicants have been very prompt in modifying their plans and story poles to date, staff is comfortable continuing the application to a date certain, January 17, 2019.
- d. Deny the project and provide findings for denial.

ATTACHMENTS

Attachment A: Resolution No. 2018-22
Attachment B: Letter from neighbor

407 Cypress pcstaffrpt 122018 fnl

RESOLUTION NO. 2018-22

A Resolution of the Fairfax Planning Commission Approving an Amended Design Review Permit and Use Permit for a New Residence at 407 Cascade Drive

WHEREAS, the Town of Fairfax has received an application from Shawn and Allison Madden for a new, 2,200 square foot single family residence with an attached 500 square foot garage at 407 Cascade Drive; and

WHEREAS, the Planning Commission held duly noticed Public Hearings on November 15th and December 20, 2018, at which time the Planning Commission determined that the proposed project as amended complies with the Town Zoning Ordinance; and

WHEREAS, based on the plans and other documentary evidence in the record the Planning Commission has determined that the project as amended meets the burden of proof required to support the findings necessary to approve the Design Review Permit and the Use Permit; and

WHEREAS, the Commission has made the following findings:

1. The proposed residence design, as amended, meets the Town design criteria and therefore complies with the following 2010-2030 Fairfax General Plan Policies and Goals, Use Permit Findings and Design Review Criteria:

Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass. The project as amended meets all applicable zoning standards.

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.

The project as amended will create a well composed design, harmoniously related to other residences in the immediate area and to the total setting.

The project as amended is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.

The design of the project as amended has sufficient variety and articulation to avoid monotony in the external appearance.

The size and design of the project as amended is in proportion to its building site and has a balance and unity among its external features so as to present a harmonious appearance.

The on-site parking is accessible and will have no significant impact on passing

vehicular or pedestrian traffic.

The approval of the amended project shall not constitute a grant of special privilege because the amendments will not change the compliance of the project with the setback, height, floor area ratio, lot coverage or parking regulations for the RS-6 Zone District where the property is located.

The project as amended will not cause excessive or unreasonable hardship to adjoining properties or premises or cause adverse physical or economic effects.

Approval of the project as amended not contrary to the objectives, goals or standards pertinent to the project and contained within the Zoning Ordinance.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with all conditions set forth in this approval, as follows:

1. Except as amended by these conditions, this approval is limited to the plans prepared by Alden Architecture, consisting of 16 pages and dated received December 7, 2018.
2. Prior to issuance of the building permit for the project the plans shall be amended as follows:
 - a. The maximum height shall be reduced by 1 foot, or to a maximum height of 25 feet, 9 inches.
 - b. The existing Pittosporum hedge on the west property line shall be preserved except for the areas identified on the site to be removed to comply with Fire requirements.
 - c. A tree with an anticipated height at maturity of at least 12 feet shall be incorporated into the landscape plan for planning in the front yard area.
3. Prior to issuance of the building permit for the project 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 tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).

c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways. 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, bond or letter of credit equaling 100% of the estimated construction costs.

d. The foundation shall be designed by the architect certified to design such plans in the state of California. Plans and calculations of the foundation elements shall be stamped and signed by the project engineer and submitted to the satisfaction of the Town Engineer or Building Permit Plan Checker.

e. The grading and drainage elements shall also be stamped and signed by the project architect.

f. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their recommendations.

4. During the construction process the following shall be required:

a. The Building Official shall field check the concrete forms prior to the pour.

c. Prior to framing inspection, the applicant shall verify building height compliance with these Conditions, with proper allowance for additional completion elements.

b. 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.

c. Any proposed temporary closures 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 project architect shall field check the completed project prior to issuance of the occupancy and submit written certification to the Town Staff that the foundation, grading and drainage elements have been installed in conformance with the approved building plans.

6. The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

7. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 18-21 or the approval of the Planning Director of minor changes that do not modify the intent of this approval. Any construction based on job plans that have been altered without the benefit of an approved modification by the Planning Commission or the Planning Director of Application 18-21 will result in the job being immediately stopped and red tagged.
8. Any damages to the public portions of Cascade Drive or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
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, 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.
10. 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.
11. The applicant must comply with all conditions imposed by an outside agency unless that agency waives its conditions in a written letter to the Department of Planning and Building Services Department prior to issuance of the building permit.

12. All exterior lighting shall be of "dark sky" fixtures and direct the light downward. The fixture cut sheets shall be included in the building permit submittal and be subject to Planning Staff approval prior to issuance of the building permit.

Ross Valley Fire Department

13. 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.

14. A Vegetation Management Plan designed in accordance with the Ross Valley Fire Standard 220 is required, and has to receive Fire approval prior the issuance of a Building Permit.

15. 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 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.

16. Carbon monoxide alarms shall be provided in existing dwellings 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.

17. 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 and adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.

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

19. A fire sprinkler system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system with plans and specifications for the system submitted to the Ross Valley Fire Department by an individual or firm licensed to design-build sprinkler systems.

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

Marin Municipal Water District

- 21. The project shall comply with all requirements of District Code 13 – Water Conservation.
- 22. Indoor plumbing fixtures must meet specific efficiency requirements.
- 23. Backflow protection shall be installed as a condition of water service.

Other outside agency requirements

- 24. The applicant must comply with all outside agency conditions unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services Department prior to issuance of the building permit.

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

The approval of Design Review Permit and 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 with the required modifications 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 20th day of December, 2018 by the following vote:

- AYES:
- NOES:
- ABSTAIN:

Chair Mimi Newton

Attest:

Ben Berto, Director of Planning and Building Services

Rev. Beverly Brewster
411 Cascade Drive
Fairfax, CA 94930
415-446-8267
beverlybrewster@comcast.net

December 13, 2018

Ben Berto
Director of Planning and Building Services
Town of Fairfax, CA 94930

By email to bberto@townoffairfax.org

Re: 407 Cascade

Dear Mr. Berto,

I'm the property owner of 411 Cascade, adjacent to and on the west side of the referenced property. As you know from my statements to the Commissioners at the last Planning Commission meeting, I have had concerns about the impact of the proposed new construction at 407 on my light, view, privacy, and quality of life.

The Maddens have made a commendable effort to address those concerns, and as I understand it, the concerns of the other neighbors, by moving the house eastward and reducing its width, articulating and lowering the front portion, reducing the overall height of the house, and changing the configuration of the back deck, as reflected in the new story poles. With these changes, I do not oppose the project. The Maddens have been exceptionally considerate and courteous as well as professional in all their dealings with me.

Please share my letter with the Commissioners, and express my thanks to them for the dedicated service to the town. Thank you, too!

Sincerely, *Rev. Beverly Brewster*
cc: Allison and Shawn Madden

ATTACHMENT **B**