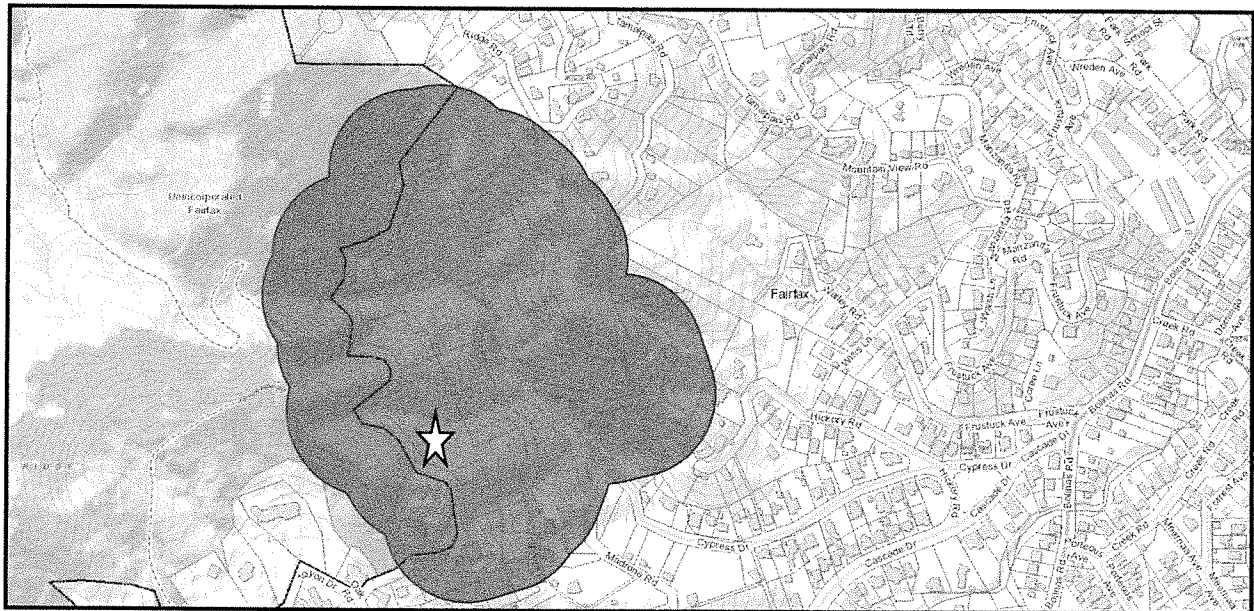


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: February 21, 2019
FROM: Linda Neal, Principal Planner
LOCATION: 200 Toyon Road; Assessor's Parcel Numbers 003-161-01, 003-171-01 through 08
ZONING: Residential Single-family RS-6 Zone
PROJECT: New single-family residence
ACTION: Hill Area Residential Development, Design Review, Excavation and Encroachment permits and a Retaining Wall Height and Front Setback Variances; Application # 19-03
APPLICANT: Jerry Frate, Architect
OWNER: Ben Ross
CEQA STATUS: Categorically exempt, 15301(a), 15305(a) and (b),



200 TOYON AVENUE

DESCRIPTION

New applications were submitted for Hill Area Residential Development, Excavation, Design Review, Encroachment and a Front Setback Variance on August 15, 2018. The project was declared complete on January 2, 2019.

The proposed project consists of the following: a) construction of 2-story, 33 foot, 8 inch tall, 2,750 square-foot residential structure with a 1,296 square feet of area on the upper (main) floor and 1,454 square-feet on the lower floor; b) a 597 square-foot, 2-car garage; and c) 1,724 square feet of deck area. The project also includes construction of approximately a 35-foot-long, 20-foot-wide extension of the Toyon Road right-of-way.

A fire truck turn around area will be created at the existing terminus of Toyon Road by widening the area downslope through construction of a 4-foot-tall retaining wall in the right-of-way. Two public parking spaces and an access path will be developed to connect with the existing public path to the Marin County Open Space land located southwest of the site (See plan sheets 1 and C2); The total proposed project grading consists of 323 cubic yards of cut and 36 cubic yards of fill, for a net off-haul of 287 cubic yards. The retaining walls for the roadway extension, fire truck turn-around, public parking area and public access path connecting to open space would vary in height from approximately 1 foot to 7 feet and would be located on both sides of the roadway, parking and open space access path. Wall heights on either side of the roadway/parking pathway would be less than a maximum of 6 feet in height on the downhill side and 7 feet on the uphill side.

The proposed residential structure would contain 4 bedrooms, 3½ bathrooms, dining room, living room, kitchen and an expanded hallway with a laundry closet. Three rainwater storage tanks are proposed for storage in the underfloor area beneath the eastern, lower floor deck

This new submittal is substantially different from the proposal that was denied by the Commission in November of 2017 which included a 459-foot-long extension of Toyon Road, a 4,463 square-foot residence, 1,615 cubic yards of cut, 856 cubic yards of fill for a net off-haul of 759 cubic yards of material, removal of 102 trees and roadway retaining walls that would have reached 17 feet in height.

The residence complies with the regulations set forth in the Residential Single-family RS-6 Zone District as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 ft., 3 stories
Proposed	0 ft.	90 ft.	90 ft.	15 ft. & >600 ft.	over 615 ft.	.006	.006	33' 8", 2 stories

BACKGROUND

The 10.9 acre project site is located at the terminus of the improved portion of Toyon Road. The property slopes down in a northerly direction from the dirt road/path at a rate of 55 to 65 %. A narrow graded dirt road that quickly narrows to a path runs along the south boundary of the site. The nine lots that formerly comprised the property were merged into one lot by the Town on June 28, 1984.

REQUIRED DISCRETIONARY PERMITS

The project requires the approval of a Hill Area Residential Development permit, Encroachment Permit, Retaining Wall Height Variance, Excavation Permit, Design Review Permit and Front Setback Variance. The required discretionary permits and analysis of project compliance with the related sections of the Town Code and Zoning Ordinance are found below.

Hill Area Residential Development

The purpose of the Hill Area Residential Development Permit is to encourage the maximum retention of natural topographic features, minimize grading of hillside areas, provide a safe means of ingress and egress to and within hillside areas, minimize water run-off and soils erosion during and after construction, prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards, and to ensure that infill development on hillside lots is of a size and scale appropriate to the property and is consistent with other properties in the vicinity under the same zone classification [Town Code sections 17.072.010(A)].

Town Code §17.072.090(C)(1) requires graded slopes to be sculptured and contoured to blend with the natural terrain and Town Code §17.072.090(C)(2) requires that the height of retaining walls shall be minimized within the Hill Area Residential Development Overlay Zones. The location of the house immediately adjacent to the end of the improved portion of Toyon Road minimizes the length of the right-of-way improvement required to access the residence parking improvements and minimizes the retaining walls necessary to extend the roadway. The creation of two public parking spaces with a graded pathway connecting to the existing public pathway accessing the open space land is considered a public benefit. The size of the residence relative to the 10.9 acre size of the site is modest. Therefore, most of the site will be retained in its natural state and disturbance of the site has been minimized in compliance with this section of the code.

Town Code § 17.072.090(D)(2) indicates that projects within the Hill Area Residential Development Overlay Zone shall be designed to minimize disruptions of existing ecosystems. The proposal will result in the roadway only be extended 35 feet from the terminus of the developed portion of Toyon Road to provide access to the required parking and residence entry. This short roadway extension and the relatively small 3,016 square-foot footprint of the residence minimizes the number of trees that have to

be removed, the amount of natural vegetation that must be eliminated, and construction-related disturbance of the natural slope and drainage areas of the site, so the proposed development is consistent with this section of the Town Code.

Drainage and Slope Stability

The Town Engineers have reviewed the entire body of information provided by the applicant on the project, including the project engineering and architectural plans as well as the geotechnical reports by Geoengineering, Inc. dated 7/9/15 and the addendum dated 6/27/18 and the drainage report by DVC Group, dated 9/7/18. After completing their review and visiting the site on 8/27/18, they have determined that the project can be constructed as proposed without creating any significant geologic or hydrologic hazards for adjacent public or private properties as long as certain conditions are met.

Drainage from the roadway extension and the house will be collected and taken to two bio-retention and storm drain dissipater systems to the east and west of the improvements.

House Siting and Design

The house siting and design comply with the purpose section of the Hill Area Residential Development Chapter 17.072 of the Town Code. The house has been designed with a compact 72-foot by 33-foot footprint with the minimum underfloor area necessary to keep the house and garage at an elevation where the driveway can meet Marin cities' and County driveway slope regulations (Standard # 140), while also keeping the house below the 35-foot height limit required by Town Code § 17.080.060(A) and complying with Ross Valley Fire Department regulations for distance of structures from the fire truck staging area (the hoses must be able to reach all portions of the exterior of the structure).

Design Review

Town Code §17.020.030(A) requires that the design of new residences be reviewed and approved by the Fairfax Planning Commission for compliance with the design review criteria contained in Town Code §17.020.040.

These criteria include but are not limited to the following:

“The proposed development shall create a well composed design harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community”.

“The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has balance and unity among its external features so as to present a harmonious appearance”.

“The extent to which natural features, including trees, shrubs, creeks and rocks and the natural grade of the site are to be retained”.

The proposed structure complies with the Design Review Criteria. The structure conforms to the general character of other structures in the vicinity, will require minimal disturbance to the 10.9-acre site for grading to accommodate the roadway extension, house footprint and the public parking and access to the open space areas beyond the house site. The construction will require the removal of 26 trees (23 bay trees and 3 oak trees), all of which are in poor to fair condition. The project arborist, Urban Forestry Associates, Inc., stated in their 10/11/18 “Tree Preservation/protection Plan” that an additional 3 bay trees (#’s 90, 91 and 92 in the report) may be negatively impacted, unless the design of the adjacent retaining wall and grading are tailored to minimizing the impact to these trees roots system. Staff has therefore included a condition of approval as follows:

The project arborist shall review and approve the building permit construction and grading plans for the public parking area and shall be on site during the grading process to ensure bay tree numbers 90, 91 and 92 are protected; or, if the arborist determines that retention and protection is not possible, the removal of the trees is approved upon his written recommendation to the Town and approval by the Planning Director.

People accessing the open space area southwest of the site currently park at the end of the road at the driveway entry to the house at 183 Toyon Road. This area will become a fire truck turnaround and will be posted no parking. Staff believes the provision of two new public parking spaces adjacent to the public trail is important enough to warrant the removal of the three bay trees, #’s 90, 91 and 92, if the project arborist determines it is not possible to retain them.

The exterior of the structure would be articulated through the use of both stucco and horizontal Hardieplank lap siding. The stucco will be painted a neutral “tan” color (Adobe by La Habra) while the horizontal siding will be a dark brown color (Redwood – James Hardie). The window, door and deck railing tops would be white (White – Sherman Williams and vinyl clad windows with a white factory finish). Brown lattice panels would be affixed to both the lower north and east facing walls of the north east corner of the house, and the window sizes and shapes have been varied to further break up the external façade. Gutters would be metal and painted a pink/brown color (Coral – Sherwin Williams). The asphalt shingles would be brown shade to compliment the horizontal siding and stucco (“Aged Chestnut – Timberline HD Reflector Series).

Relative to proposed structure that was denied by the Planning Commission in November of 2017, the current proposal will be much less visible. While it will be visible to some properties nearby, from across the valleys on Ridge Road and Fawn Ridge Road, the proposed residence would require the removal of far fewer trees than the prior residence and it’s over 300-foot access roadway. The current location also keeps

the residential structures clustered on the hillside in an area that is already developed with numerous residential dwellings. The structure has also been designed in a similar manner to residences found throughout the hillsides of Fairfax, with a relatively small footprint and a maximum height of 34 feet and two stories [Town Code § 17.080.060(A)].

200 Toyon Road – SIMILAR PROPERTIES DEVELOPMENT							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
On similar lots							
003-181-10	53 Ridge	4.03 acres	2,647	3	2.5	528	.02
001-062-49	51 Ridge	1.4 acres	2,660	3	2.5	480	.04
197-090-01	99 Toyon	2.08 acres	2,077	3	2.5	0	.02
003-152-33	180 Toyon	1.3 acres	2,638	4	4	480	.05
002-052-14	10 Fawn Ridge	2.10 acres	2,846	3	2	270	.03
174-070-71	615 Oak Manor	50 acres	3,710 (SFR + ADU)	5	5	456	.002
DEVELOPMENT OF PROPERTIES IN THE IMMEDIATE NEIGHBORHOOD ON TOYON ROAD							
003-152-29	164 Toyon	17,718 sf	2,510	3	2.5	407	.14
003-152-28	156 Toyon	11,226	1,860	4	2.5	0	.17
003-152-30	104 Oak Road	18,343	2,304	2	2	357	.13
003-151-05	144 Toyon	14,850	2,553	3	4	480	.17
197-090-07	161 Toyon	14,637	2,898	3	515	0	.20
197-090-12	181 Toyon	11,500	2,760	3	3.5	0	.24
197-090-14	183 Toyon	19,546	2268	3	3	0	.12
197-090-16	179 Toyon	16,070	2,206	3	3	0	.12
Project Site							
200 Toyon (9 merged lots)		474,804	2,750	4	3 ½	597	.006

The house has been designed to be in scale with the project site and similar in size to other structures in the neighborhood and on similar sized and sloped sites throughout the hillsides of Fairfax.

Excavation

Town Code §17.20.080 requires that an Excavation Permit be obtained from the Planning Commission for excavation and fill amounts of over 100 cubic yards. In order to approve an Excavation Permit the Commission must be able to find that the health, safety and welfare of the public will not be adversely affected, that adjacent properties are adequately protected by project investigation and design from geologic and hydrologic problems, that the amount of excavation or fill proposed is not more that is required to allow the owner substantial use of his or her property, that the visual and scenic enjoyment of the area by others will not be adversely affected by the project

more than is necessary, that natural landscaping will not be removed by the project more than is necessary and that the time of year during which the construction will take place is such that the work will not result in excessive siltation from storm run-off nor prolonged exposure of unstable slopes.

The house has been sited immediately adjacent to the end of the improved Toyon Road roadway and would only require the extension of the road for 35 feet to provide access to the residence garage and front entryway. The design incorporates two public parking spaces and a graded pedestrian access pathway with railroad tie steps to maintain public access to the open space lands beyond the project site. The excavation proposed to install the drainage improvements and supply lines for the residence is the minimum necessary to allow construction, per the Town Engineers' recommendations to ensure slope stability below the project site.

The Town Engineers have indicated that the site can be developed without causing adverse geologic or hydrologic problems for adjacent properties (Attachment B).

Construction of the project will require the cut/fill of the following amounts of material:

Area	Cut	Fill	Net
Driveway/Parking/Path	239	27	212
Residence/foundation	36	0	36
Utility/Bio Trenches	48	9	39
TOTAL	323	36	287

The above amounts are the minimum necessary to allow development of the site in compliance with building, zoning, and engineering requirements.

Encroachment Permit

Town Code § 12.32.010 gives the Planning Commission the authority to grant encroachment permits for carports and other structures upon portions of the public rights-of-way that are not being used for vehicular or pedestrian travel. These encroachments are revocable and are memorialized through the recording of a "Revocable Encroachment" agreement at the Marin County Recorder's Office prior to issuance of the building for any project that proposes use of the public right-of-way for private improvements.

The driveway deck leading to the proposed garage would be constructed 14 feet into the Toyon Road right-of-way and this portion of the development requires the approval of an encroachment permit. Most developed properties within the hillside areas of Fairfax have been issued some type of encroachment permit because the Town roads are rarely developed to the full width of the right-of-way and there has to be an encroachment for vehicle to get from the road bed to the on-site parking improvements.

The 14 foot encroachment being requested is the minimum necessary to allow

development of the house and access to the required parking in the garage. Approval of the encroachment is conditioned upon the applicant completing and recording a revocable encroachment agreement prior to issuance of the project building permit.

Retaining Wall Height Variance

Town Code § 17.044.080(A) regulates retaining walls to not exceed 6 feet in height and to only maintain heights over 6 feet after obtaining a variance from the Planning Commission.

All the walls will be cast in place concrete unless alternative materials and methods are approved by the Town Engineer and Planning Director.

The retaining wall upslope of the access driveway and the house will range from 6 inches to 6 feet.8 inches in height. On the downslope side of the access drive the wall will range from 6 inches feet to 5 feet 7 inches in height.

The wall heights are the minimum necessary to allow development of the site.

Front Setback Variance

Town Code § 17.080.070(B)(1) requires that structures in the Residential Single-family RS-6 Zone maintain a minimum front setback of 6 feet but allows the Commission to grant variances from the regulations. Town Code §17.028.010 allows the Commission to allow variation from the strict application of the zoning regulations where, by reason of exceptional topographic conditions, the literal enforcement of the front setback would involve practical difficulties unnecessary to carry out the spirit of and purpose of the setback regulation.

Most of the proposed structure would be set 6 feet north of the front property line in compliance with the required 6-foot front setback. The front property line of the site is located 16 feet away from the proposed location of the access roadway (located approximately where the abandoned fire access road was previously graded to minimize size disturbance) Due to the large (16-foot) distance of the front property line from the proposed location of the 20-foot wide roadway, the applicants are requesting a front setback variance for a 145 square-foot front entry deck and 30 square-foot side stairway landing, which would be constructed to within 1 foot of the front property line. The portion of the access driveway and uncovered parking within the front setback are permitted without requiring a front setback variance per Town Code §17.052.010(C)(2).

Allowing the roadway improvement to be located where a fire road previously existed minimizes the disruption to the area but result in small portions of the house access decks encroaching into the front setback. Location of the structure out of the setback would either increase the house height or make it more difficult to design a garage and driveway in compliance with Marin City and County Steep Driveway regulations (Drawing # 140) and keeping the house below the 35-foot height limit required by Town

Code § 17.080.060(A) and Ross Valley Fire Departments access distance regulations (the fire hoses must be able to reach all portions of the exterior of the structure).

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department (RVFD)

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, a fire sprinkler system shall be installed throughout the entire building, smoke detectors shall be installed throughout the entire building and be provided with AC power and be interconnected for simultaneous alarm, carbon monoxide alarms shall be provided outside each sleeping area in the immediate vicinity of the bedrooms and address numbers at least 4 " tall visible from the street and internally illuminated or illuminated by and adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.

Marin Municipal Water District (MMWD)

MMWD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

A low pressure water service application is required as well as a notarized low pressure water agreement and the applicant may be required to install a mechanism to pressurize the water supply system, a copy of the building permit must be provided to the district along with the required applications and fees, the foundation must be completed within 120 days of the date of application, all indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with, any landscaping plans must be reviewed and approved by the District, backflow prevention requirements must be met and Ordinance 420, requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town, all of the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

RVSD submitted written requirements which have been incorporated into the conditions of approval in the attached resolutions and are summarized as follows:

The public sewer must be extended to serve the proposed single-family residence, an application for public sewer extension must be filed as approved, the applicable fees and plans must accompany the application for a public sewer extension, the public sewer extension must be installed in accordance with the District's specifications, once

the public sewer extension is installed and accepted by the District, a sewer connection permit is required for each building having sewer service, the District will issue the sewer connection permit after the building permit is obtained and the District's fees have been paid, the private sewer line must meet District specification and be inspected by a District inspector before being covered.

Fairfax Police, Building and Public Works Departments

The Public Works Department has required the following:

A Civil Engineer shall prepare an existing roadway condition report including video and photographs on the portion of Toyon Road that is not Town maintained, documenting the existing roadway condition. The report shall be submitted with the building permit application and the applicant shall be responsible for restoring any damaged portions of the road to preconstruction condition prior to the final project inspection.

RECOMMENDATION

1. Conduct the Public Hearing.
2. Move to approve application # 19-03 by adopting Resolution No. 2019-02 setting forth the findings and conditions for the project approval.

ATTACHMENTS

- Attachment A – Resolution No. 2019-03
- Attachment B – DVC preliminary drainage report dated 9/7/18
- Attachment C – Civil Engineer's easements and boundaries
- Attachment D – Vegetative Management Plan approval letter from RVFD
- Attachment E - Geoengineering, Inc. geotechnical reports dated 11/16/18, 6/27/18, 7/9/15 and 6/8/01
- Attachment F –Urban Forestry Associates, Inc. Tree Preservation/Protection Plan dated 10/11/18
- Attachment G – Town Engineers' final memorandum of 12/11/18
- Attachment H – Neighbor comments

RESOLUTION NO. 2019-02

A Resolution of The Fairfax Planning Commission Approving Application No. 19-03 for a Hill Area Residential Development Permit, Excavation Permit, Encroachment Permit, Front Setback Variance, Retaining Wall Height Variance and Design Review Permit for a Residence at 200 Toyon Road

WHEREAS, the Town of Fairfax has received an application from Ben Ross to build 2-story, 2,750 square-foot, 4 bedroom, 3½ bathroom single-family residence with an attached 597 square-foot garage on August 15, 2018; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on February 21, 2019 at which time the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance; 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 Hill Area Residential Development, Excavation, Encroachment, Front Setback Variance, Retaining Wall Height Variance and Design Review Permits; and

WHEREAS, the Commission has made the following findings:

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

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.

Policy LU-7.2.2: to the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Policy LU-4.1.4: New and renewed development shall be designed to minimize run-off in a manner that does not cause undue hardship on neighboring properties.

Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees, and vegetation shall be preserved for new and renewed development.

Policy S-3.1.3: Maximize access and egress for emergency response vehicles.

Hill Area Residential Development

The proposed development is consistent with the General Plan and the Residential Single-family RS 6 Zone regulations.

1. The site planning preserves identified natural features as much as possible while

also complying with other agencies' regulations.

2. Vehicular access and parking are adequate.
3. The proposed development harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040.
4. The approval of the Hill Area Residential Development permit for one single-family residence on this 10-acre parcel 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 Hill Area Residential Development 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. Approval of the proposed Hill Area Residential Development permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
7. Approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

Excavation Permit

8. The Town Engineers have reviewed the following plans and reports and have determined the project can be constructed, with certain conditions of approval, without creating any hazards:
 - a. Architectural plans by Jerry Frate Architecture and Planning, pages 0 through 4 dated 4/18/18 and 6/29/18, sheets C1 through C4, by DVC Group, dated 11/20/18, overall schematic site plan by ILS Associates, sheet 1 of 1, Tree Removal and Protection Plan sheet T-1, by Urban Forestry, dated 10/11/18. Geotechnical report by Geoengineering, Inc. dated 11/6/18, 6/27/18, 7/9/15 and 6/8/01, preliminary drainage report by DVC Group, dated 9/7/18T and Tree Preservation/Protection Plan Report dated 10/11/18.
9. Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:
10. The health safety and welfare of the public will not be adversely affected;

11. Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
12. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
13. The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;
14. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
15. Natural landscaping will not be removed by the project more than is necessary; and
16. Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

Front Setback and Retaining Wall Height Variances

17. The site is steeply slopes and the road easement is 40 feet wide which results in the front property line being 16 feet from the edge of the improved roadway location. These are the special circumstances applicable to the property, including size, shape, topography, location of surroundings that would result in the strict application of the front setback and retaining wall height regulations depriving the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
18. 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.
19. The strict application of this title would result in excessive or unreasonable hardship.
20. 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.

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

1. The project is approved per the following plans and documents: Architectural plans by Jerry Frate Architecture and Planning, pages 0 through 4 dated 4/18/18

and 6/29/18, sheets C1 through C4, by DVC Group, dated 11/20/18, overall schematic site plan by ILS Associates, sheet 1 of 1, Tree Removal and Protection Plan sheet T-1, by Urban Forestry, dated 10/11/18. Geotechnical report by Geoengineering, Inc. dated 11/6/18, 6/27/18, 7/9/15 and 6/8/01, preliminary drainage report by DVC Group, dated 9/7/18T and Tree Preservation/Protection Plan Report dated 10/11/18.

2. Prior to issuance of any of the building permits 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:
 - 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
 - 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 and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Structural Engineer.
 - e. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project Geotechnical Engineer.
 - 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.

- g. Submit 3 copies of the record of survey with the building permit plans.
- h. All retaining walls that are visible from the street and are constructed of concrete shall be heavily textures or colorized in a manner approved by the planning staff prior to issuance of the building permit. This condition is intended to mitigate the visual impact of the proposed walls.
- i. Three copies of the Tree Protection/Preservation Plan by Urban Forestry Associates, Inc. dated 10/11/18 shall be submitted with the building permit application and all recommendations included in this report shall be conditions of the project approval including but not limited to recommendations for the treatment of multi-stemmed trees and tree protection fencing, trunk and limb protection and soil armoring. All the inspections contained in the inspection schedule on page 3 of the report shall be made by the project arborist who shall provide the Town with written verification after each inspection that the work is progressing in compliance with the recommendations and conditions of the arborist.
- j. Prior to the removal of any trees not approved by the Planning Commission through this action, the applicant shall secure a tree cutting permit, if required, from the Fairfax Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 9.36. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water and drainage) which incorporates the services of the project arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. In particular, cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams. Any pruning shall take place during the winter when trees are dormant for deciduous species and during July to August for evergreen species.

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

- a. The geotechnical engineer and the project arborist shall be on-site during the grading process and both shall submit written certification to the Town Staff that the grading and tree protection measures have been completed as recommended prior to installation of foundation and/or retaining forms and drainage improvements, piers and supply lines.
- b. 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.

- c. The Building Official shall field check the concrete forms prior to the pour.
 - d. 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.
 - e. 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.
4. Prior to issuance of an occupancy permit the following shall be completed:
- a. The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.
 - b. The Planning Department and Town Engineer shall field check the completed project to verify that all and planning commission conditions and required engineering improvements have been complied including installation of landscaping and irrigation prior to issuance of the certificate of occupancy.
5. Excavation shall not occur between October 1st and April 1st of any year. The Town Engineer has the authority to waive this condition depending upon the weather.
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 # 19-03. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 19-03 will result in the job being immediately stopped and red tagged.

8. Any damages to the public portions of Toyon Rd., Oak Rd., Laurel Dr., Cascade Dr., Bolinas Rd., 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, 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.
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. Conditions placed upon the project by outside agencies or by the Town Engineer may be eliminated or amended with that agency's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
12. Conditions placed upon the project by the project arborist may be amended or eliminated by the approval of the Planning Director after receiving a request for the elimination/amendment in writing from the project arborist.
13. The building permit plans shall be reviewed and approved by the Town Engineer, at the expense of the applicant, prior to issuance of the building permit. The project shall be inspected by the Town Engineer prior to issuance of the occupancy permit for the residential structures for compliance with the

engineering plans.

Ross Valley Fire Department

14. Project has been deemed a "substantial remodel" and as such 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. 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.
16. 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.
17. 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.
18. 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.
19. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
20. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

Marin Municipal Water District (MMWD)

21. A low pressure water service application is required as well as a notarized low pressure water agreement and the applicant may be required to install a mechanism to pressurize the water supply system.
22. A copy of the building permit must be provided to the district along with the

required applications and fees.

23. The foundation must be completed within 120 days of the date of application.
24. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
25. Any landscaping plans must be reviewed and approved by the District.
26. Backflow prevention requirements must be met.
27. Ordinance 420., requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town.
28. All of the District's rules and regulations in effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

29. The public sewer must be extended to serve the proposed single-family residence.
30. An application for public sewer extension must be filed and approved and the applicable fees and plans must accompany the application for a public sewer extension.
31. The public sewer extension must be installed in accordance with the District's specifications.
32. Once the public sewer extension is installed and accepted by the District, a sewer connection permit is required for each building having sewer service, the District will issue the sewer connection permit after the building permit is obtained and the District's fees have been paid, the private sewer line must meet District specification and be inspected by a District inspector before being covered.

Fairfax Public Works Department

33. A Civil Engineer shall prepare an existing condition report including video and photographs on the portion of Toyon Road that is not Town maintained documenting the existing roadway condition. The report shall be submitted with the building permit application and the applicant shall be responsible for restoring any damaged portions of the road to preconstruction condition prior to the final project inspection

Miscellaneous

- 34. The Revocable Encroachment Document memorializing the approved encroachments must be signed, notarized and recorded at the Marin County Recorder's Office prior to issuance of the Building permit.
- 35. The roadway damage bond must be submitted prior to issuance of the building permit and its amount shall be set by the Town Engineer taking into consideration that a portion of the roadway is not a town maintained street and has recently been repaired and repaved.
- 36. The roadway extension, public parking spaces and driveway must be completed before any construction of the house above the foundation begins.
- 37. The sign that identifies the 2 public parking spaces in the roadway easement shall include language prohibiting overnight parking.

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

The approval of the Hill Area Residential Development Permit, Excavation Permit, Encroachment Permit, Front Setback and Retaining Wall Height Variances and Design Review Permit are 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 21st day of February, 2019 by the following vote:

- AYES:
- NOES:
- ABSTAIN:

Chair, Swift

Attest:

Ben Berto, Director of Planning and Building Services