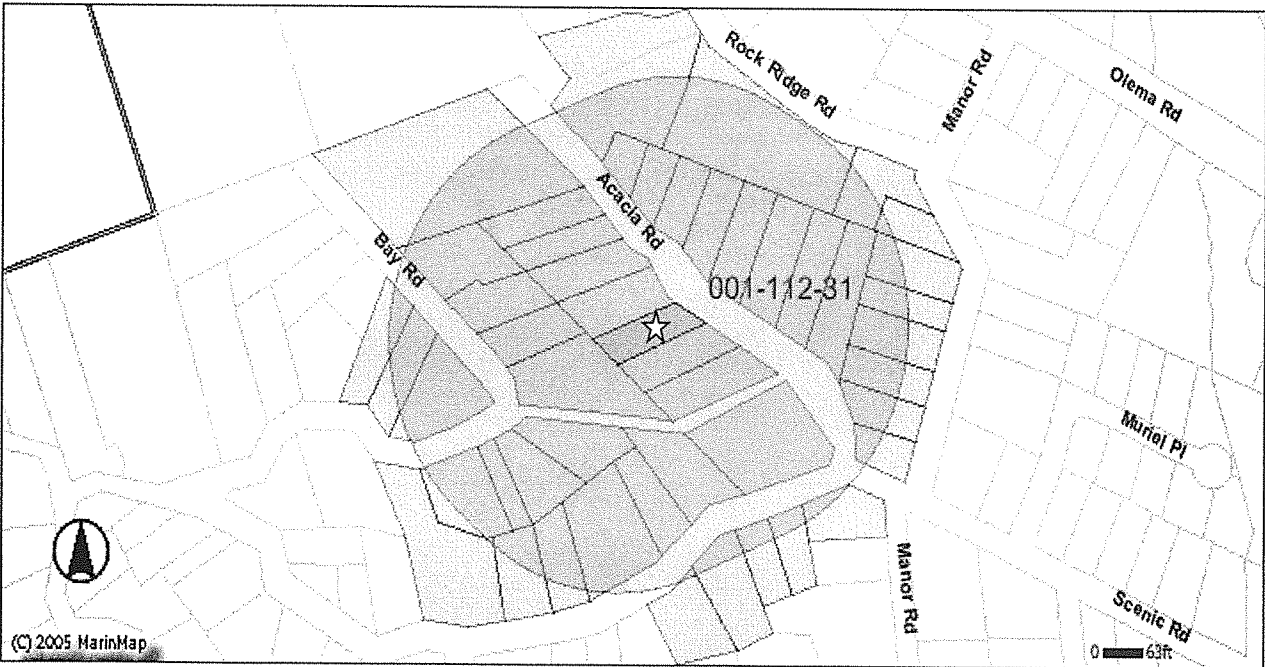


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Planning Commission
DATE: June 18, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
PROJECT: Single-family residence
ACTION: Hill Area Residential Development Permit, Encroachment Permit
Side Setback and Parking Variances and Excavation Permit;
Application # 16-16
APPLICANT: Ted Pugh and Ricki Kerner
OWNER: Same
LOCATION: 15 Acacia Road; Assessor's Parcel No. 001-112-31
ZONING: Residential Single-family RS 6 Zone
CEQA STATUS: Categorically exempt, § 15303(a), and § 15305(a) and (b)



15 ACACIA ROAD

AGENDA ITEM # 5

BACKGROUND

The lower portion of this site and the northern side of the property at 13 Acacia Road suffered a surface slide in December of 2005. The Town placed rip rap within the right-of-way and on the lower portions of the site to keep Acacia Road open.

This 6,400-squarefoot property was created by the filling of the “Amended Map of Fairfax Manor” on April 7, 1919. The site slopes up from Acacia Road at an average rate of 53%

This project was previously approved by the Planning Commission on December 18, 2008, after being redesigned to minimize a back patio area and eliminate a 4th story mezzanine. The plans being reviewed at this meeting have not been changed from the ones that were previously approved in 2008. The Town granted an extension of time to construct the improvements approved in 2009, as 1 time extension is allowed by the Town Code but the extended approvals expired in 2010 (Town Code §§ 17.072.050 and 17.072.090).

PROJECT DESCRIPTION

The applicant is seeking re-approval of the discretionary permits with no proposed changes to the project plans. The project encompasses the construction of a 2,556-square-foot, residence. The 836-square-foot garage, utility room and entry are located on the first floor, the family room, one of the bedrooms and a full bathroom are located on the 837-square-foot second floor, and the kitchen, dining room, a second bedroom and a second full bathroom are located on the 883-square-foot, third floor.

The project also includes a 421-square-foot deck area divided between a deck off of the second story family room and second story bedroom, and a roof deck on top of the second story accessed by an outdoor stairway off of the rear of the kitchen.

The project complies with the regulations set forth in the Residential Single-family RS 6 Zone as follows: (Do you want to include existing conditions in the table?)

	Required front setback	Required rear setback	Combined front/rear setback	Minimum side setbacks	Combined side setbacks	FAR	Lot Coverage	Height/stories
Required/ permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft. & 3 stories
Proposed	6 ft.	101 ft.	101 ft.	5 ft. & 5 ft.	10 ft.	.30	.17	28 ft. & 3 stories

The project requires the approval of the following discretionary permits: Hill Area Residential Development (HRD) Permit, Excavation Permit, Front Yard Setback Variance, Encroachment Permit and Parking Variance.

Hill Area Residential Development Permit

Town Code § 17.072.020 sets forth the criteria used by staff to determine whether or not a project requires a Hill Area Residential Development permit. The criteria include, but are not limited to, the slope of the site combined with the amount of project excavation, whether the site is in a landslide hazard zone and whether the site is non-conforming in size based on its slope. The site slope is 53% and the project will result in the excavation of 840 cubic yards of material. In addition, the property is in a landslide hazard zone and is substandard in size and width, being only 6,400 square feet and 52 feet wide [Town Code sections 17.072.020(4), (B) and (D)]. Therefore, the project requires the approval of a Hill Area Residential Development (HRD) Permit.

It is the purpose of the Hill Area Residential Development Overlay Zone to provide review of and standards for development proposed for undeveloped land in hillside areas. The intent of this chapter to accomplish the following:

1. Encourage maximum retention of natural topographic features such as drainage ways, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formation and trees;
2. Minimize grading of hillside areas;
3. Provide a safe means of ingress and egress for vehicular and pedestrian traffic to and within hillside areas;
4. Minimize water runoff and soil erosion problems during and after construction;
5. Prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards; and
6. 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.

In order to approve a Hill Area Residential Development permit, the Commission must be able to make the following required legal findings:

1. The proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of this ordinance.
2. The site planning preserves identified natural features.
3. Based on the soils report finding, the site can be developed without geologic, hydrologic or seismic hazards.

4. Vehicular access and parking are adequate.
5. The proposed development harmonizes with the surrounding residential development, meets the design review criteria and does not result in the deterioration of significant view corridors.

The Town Engineer has reviewed the following reports, letters and plans regarding the site hydrology and geology with respect to the proposed development (found in the folder labeled Attachment B of the information submitted by the applicants):

1. From the Geotechnical Engineer, Herzog Geotechnical –
 - 7/25/07 original geotechnical investigation
 - 9/5/07 geotechnical review of design concept
 - 12/18/07 response to Town Engineer's 9/2/07 memorandum
 - 2/26/08 response to Town Engineer's 5/1/08 memorandum
 - 5/7/08 clarification of stability issues
 - 2/4/16 Update addendum certifying the validity of the original 2007/2008 geotechnical
2. From the Hydrology and Drainage Engineer, ILS Associates, INC. –
 - 2/25/08 original hydrology report
 - 3/27/08 comments on sheet C1 of the project plans
 - 2/22/06 addendum validating original 2007/2008 reports
3. From the consulting Structural Engineer, BHW Engineer LLC –
 - 8/22/07 preliminary technical comments and design recommendations
 - 1/10/08 response to Town Engineer's 11/1/07 memorandum
 - 3/31/08 additional information regarding necessity for rear retaining walls and patio
 - 5/6/08 response to Town Engineer's 5/1/08 memorandum
 - 3/3/16 addendum certifying the continued validity of the original 2007/2008 reports
4. From the Civil Engineer/surveyor, J.L. Engineering -

- 7/24/07 excavation/fill calculations
 - 3/31/08 excavation/fill calculation for the rear patio
 - 9/10/08 revised excavation/fill calculations after redesign of rear patio
 - 3/4/16 addendum certifying the validity of the original calculation amounts
5. Marin Tree Services letters dated 9/25/07, 1/9/08 and 5/7/08 and addendum letter dated 3/4/16.
 6. Addendum letters from the project architect and landscape architect verifying suitability of the 2007/2008 plans for the current application submittal.

The Town Engineer has re-reviewed the original submittal reports, the new submittals updating the originally submitted information, and has performed a recent site inspection in early January of 2016. After his review and inspection, the Town Engineer has determined that the Planning Commission has adequate information to re-issue the original discretionary permits for this previous slide site without negatively impacting the public right-of-way or adjacent residential properties.

Homes on Acacia Road vary in size from a 1,180-square-foot, 3-bedroom, 1-bathroom, residence (7 Acacia Road) on a 6,600-square-foot parcel to a 2,270-square-foot, 3-bedroom, 3-bathroom, residence (16 Acacia Road) on a 9,600-square-foot parcel. Therefore, the proposed 2,256-square-foot residence of which 790 square feet would be a garage and utility room, is similar in size to other residences in the neighborhood.

Excavation

The total excavation and fill for the project is 840 cubic yards. This amount is the minimum necessary to allow construction of a residence, including the required parking, on the site with a small amount of level and usable outdoor area (Exhibit C).

As indicated above, an earlier submittal included an expanded rear patio area that was determined by the Town Engineer to be potentially detrimental to the roots of the redwood trees on the site (see Page 3, Paragraph 2 of the May 1, 2008, Town Engineer's memorandum).

The project was subsequently redesigned with a small level landing and upper level yard area, as currently proposed. As a result the amount of excavation has been reduced and the retaining walls would be located further from the roots of the redwood trees.

The amount of excavation now proposed is the minimum necessary to develop the site with the required parking and a small, level outdoor yard area.

Tree Removal and Landscaping

Construction would require the removal of 10 bay trees and one oak within the footprint of the structure. Excavation for the rear retaining wall would maintain a 9ft setback from the closest redwood tree located west of the construction area and would not encroach into the tree canopy.

The applicants are proposing to replace the removed trees in alternative locations with 3 Western redbud trees and 1 Marina Strawberry tree. Also proposed for planting on the site are 6 Toyon shrubs, various native shrubs and perennials and Boston Ivy along the retaining walls at the property frontage.

Acacia Road Elevations

Staff notes that the locations depicted on the streetscape elevations on Sheet No 1 of the plans is not an accurate representation of the side setbacks from neighboring homes. The Houston residence deck and house are actually over on the Pugh property line not 6ft from the property line as the streetscape suggests. Also, the Dowd residence northern exterior stairs are approximately 1ft from the Pugh property line and not 9ft as depicted in the streetscape elevation.

Neighboring Residence Sizes

A review of the Marin County Tax Assessors records of other home sizes in the Acacia Road neighborhood revealed residences range from an 810-square-foot, 2-bedroom, 2-bath residence on a 8,200-square-foot site to a 2,575-square-foot, 4-bedroom, 3 1/2-bath, residence on a 4,600-square-foot site.

The proposed 1,643-square-foot, 2-bedroom, 2-bathroom residence is similar in size and character to other residences found throughout Fairfax on up-sloping properties. The development maintains a Floor Area Ratio (FAR) of .30 and a lot coverage of .17 which are well below the maximum allowed .40 FAR and .35 lot coverage (Town Code §§ 17.136.030 and 17.040.010).

Variances

Essentially, a variance is a requested deviation from the set of laws a municipality applies to land use such as the zoning ordinance, building code or municipal code. Variances are required in the United States in order to prevent a "regulatory taking" (denying an owner some reasonable use of their property). To avoid a taking, four factors needed to approve a request for a variance include: (1) unnecessary hardship, (2) the variance is needed to allow a reasonable use, (3) the allowed variance will not alter the essential character of the neighborhood, and (4) the variance results in the least intrusive solution.

Combined Side Yard Setback Variance

Town Code § 17.080.070(B)(2) requires that each building site in the RS 6 Zone having a slope of over 10% have a side yards with a minimum width of 5 ft. and a combined width of 20 ft.

The narrow 42 ft. width of the property is a physical feature of the project site that makes it unreasonably difficult to comply with the required 20 ft. combined side yard setback requirement. Compliance with the 20 ft. combined, side-yard, setback would result in a residence that is only 22 ft wide. It would be very difficult to comply with engineering and building code requirements in this case without increasing excavation into the hillside, removing the redwood trees, and significantly reducing the size of the residence to a point where it might be fiscally infeasible to build.

The Commission should note that the property appears narrower than it actually is because both the neighboring properties have improvements that project over the side property lines and onto the site.

Front Setback and Retaining Wall Height Variances

Town Code § 17.080.070(B)(1) requires that each building site in the RS 6 Zone having a slope of over 10% have a minimum front setback of 6 ft.

The steep 53% slope of the site and the proximity of the front property line, 11 ft. from the edge of the paved roadway, are physical features of the site that make it impossible to comply with the 4 ft. retaining wall height limit and 6 ft. front yard setback. In order to retain the bank and construct the required driveway apron approach, fire truck pull out, and parking, the retaining wall on the south side of the driveway would reach 6ft in height at the property line, thus exceeding the 4ft wall height limit by 2ft.

Parking Variance for a Compact Guest Parking Stall

Town Code § 17.052.040(B) sets the minimum dimensions for a standard parking space at 9 ft. by 19 ft. Town Code § 17.052.030(D) prohibits tandem parking.

Two standard parking spaces are proposed in the garage and the applicants have proposed the third, guest, parking space in the driveway angled in such a way that the northern end pinches access to the northern garage parking space making access to that garage space awkward.

Relocating the house further back on the site to accommodate head in parking will increase the excavation needed to build the house and would threaten the mature redwood trees west of the house.

Staff is recommending that the Commission grant a parking variance allowing the guest parking space to be a compact, 8 foot by 16 foot space, in tandem with the southern

garage parking space, allowing clear access to the northern garage space while also maintaining the required fire truck pull out in the expanded driveway apron.

This variance would be similar to the variance granted for the new house at 164 Willow Avenue in March of 2015. The Willow site has a similar, steep, upslope with mature oak trees at the rear of the proposed house site. A parking variance was granted to allow the guest space to be in tandem with both garage spaces to decrease the front setback, decreasing the needed excavation and pulling the house foundation further away from the mature oak trees at the rear of the house foundation walls.

The variance to decrease the size of the guest parking space to that of a compact space, 8 ft. by 16 ft., would not have a significant impact on the neighborhood parking.

Encroachment Permit

The setback of the property line, 11ft. from the edge of the roadway, makes it impossible to construct an entry to the required parking area without building retaining walls and the driveway approach in the public right-of-way. However, the walls do maintain a setback from the paved road of at least 3ft, the same setback maintained by the neighbor's wall at 13 Acacia Rd., so the walls would not narrow the right-of-way any further than current conditions.

Design Review

All new residences in Fairfax and projects that constitute 50% remodels, as well as new construction in the Commercial Districts, Multiple Family and Planned Development District Zones are subject to the Design Review permit process [Town Code § 17.020.030(A) and (B)]. The proposed project is for development of a new house and is subject to obtaining Design Review approval from the Planning Commission.

In order to issue a Design Review permit for a project, the Commission must find that the project, as designed, complies with the Design Review Criteria set forth in Town Code § 17.020.040(A) through (N).

The visual mass of the residence would be minimized by staggering the front façade into three sections back from the front property line with the midsection of the home setback 6ft from the south side of the house and the north side setback an additional 5ft from the middle section. The front façade has also been broken up through the inclusion of a triangular deck off the second floor, the use of different sized windows and by sloping the roof to follow the slope of the adjacent hillside. Therefore, the development would create a well composed design, harmoniously related to other facilities in the area.

- The driveway retaining walls at the base of the house would be covered with stucco in a reddish/tan color (Harvest Wheat) to compliment the house.
- The number of windows on the north and south sides of the residence would be minimized to maintain privacy for residents of the proposed house and the residents at 13 and 19 Acacia Road.
- The exterior façade materials include grey fiberglass, horizontal siding Olympic Stain # 712, natural concrete and stucco siding colored Omega, True Grey # 69. The fascia would be cedar and stained Olympic Stain # 706 while the trim would be cedar stained Olympic stain #712 to match the cedar siding. The garage doors would be cedar with Olympic stain # 712. Therefore, the exterior materials would help articulate the exterior of the structure to minimize the apparent visual mass.
- The roof would be dark green asphalt composition shingles to reflect the color of the adjacent tree canopy.

Therefore, the design of the development would serve to protect the value of private and public investments in the immediate area.

Disturbed areas of the site would be planted with a mix of shrubs and perennials that are shade tolerant, fire resistant and drought tolerant. Most of the 6,400-square-foot site would remain in its natural state, retaining the existing trees and other vegetation.

The development provides parking for the three vehicles as required in Town Code Chapter 17.28.

With a Lot Coverage of .17 and a Floor Area Ratio (FAR) of .30 the 2,556sf residence/garage is in proportion to the 6,400sf building site.

The building site is located adjacent to numerous residences that have varying architectural styles, dating from 1918 through 1991. Therefore, all of the architectural styles differ from each other and there is no general identifiable character in the neighborhood.

Some of the materials proposed for use in construction of the residence are green building materials and the applicant has proposed locating solar panels on the roof.

Most of the natural grade of the site would be retained in its natural state and the mature redwood trees on the site have been retained.

The accessibility of the off street parking areas and driveway from the improved portion of Acacia Road have been reviewed and approved by the Public Works Director and Town Engineer.

Most of the existing natural vegetation would be retained. The applicants propose planting six Toyon shrubs, three on each side of the house, to provide screening between the structure and the neighboring homes.

Parking

The two spaces required for the residents are provided within the existing garage while a third space is provided within the driveway apron [Town Code §'s 17.052.030(A)(1)(c) and 17.052.040(E)]. Therefore, the parking complies with the Town Code which requires two parking spaces, one of them covered, for the residence and an additional third guest parking space.

Other Agency Review

Ross Valley Fire Department

1. A purposed fire truck turn-out shall be installed and made serviceable prior to the delivery of combustibile materials to the site. " No Parking-Fire Lane" signs shall be installed on both sides of the street.
2. The 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 would require a permit from the Fire Department and the submittal of plans and specifications for system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
3. 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.
4. 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.
5. 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.
6. 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.

7. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
8. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
9. A Vegetation Management plan designed in accordance with Ross Valley Fire Standard #220 is required. A separate deferred permit shall be required for this plan. Please note that permission from your neighbors may be required if the required clearance extends beyond the property lines. If permission cannot be obtained the structure may require exterior hardening to be in compliance with the intent of the code.

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

A Sanitary District sewer connection permit is required prior to the project final inspection and issuance of an occupancy permit for the residence.

Fairfax Police, Public Works and Building Departments

The police, public works and the building department did not provide conditions of approval or comments on the project.

Other Required Discretionary Permits

Driveway Width Variance: The driveway has been expanded beyond the permitted 20ft in width to accommodate the fire truck turn out requested by the Ross Valley Fire Department [Town Code § 12.12.030]. Therefore, the project will require the approval of an exception to the Code from the Town Council [Town Code § 12.12.090].

RECOMMENDATION

Move to approve application # 16-16 by adopting Resolution No. 16-19, setting forth the findings and conditions for the project approval.

ATTACHMENTS

- Attachment A – Resolution No. 16-19
- Attachment B - Project application folder compiled by applicant
- Attachment C - Town Engineers memorandums
- Attachment D – Geotechnical reports
- Attachment E – Hydrology reports
- Attachment F – Structural reports
- Attachment G – Excavation/fill calculations
- Attachment H – Arborist's reports
- Attachment I - Addendum letter from the project Architect and Landscape Architect
- Attachment J – Revised site plan showing compact parking space orientation
- Attachment K – owner's timeline of parcel history

RESOLUTION NO. 16-19

TOWN OF FAIRFAX PLANNING COMMISSION

15 Acacia Road, Assessor's Parcel No. 001-112-30

WHEREAS, the Town of Fairfax has received an application to re-approve discretionary permits originally granted in 2008 to construct a 2,556-square-foot, 2-bedroom, 2-bathroom residence (includes 790 square feet of garage and utility room) at 15 Acacia Road; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on June 16, 2016, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

Whereas the project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant Section 15303(a), One single-family residence in a residential zone, Class 3, of the Public Resources Code (CEQA). This exemption allows for the construction of new small structures in an urbanized area; and

WHEREAS, the applicant has met the burden of proof required to support said application for Planning Commission approval, and the following findings have been determined:

1. The proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of the Hill Area Residential Development Ordinance as follows:

Goal 4.1.2: All new development shall be required to preserve some of the natural landscape.

The project preserves the redwood trees and several bay trees on the site and maintains most of the site's natural topography.

Goal 4.1.5: Areas of redwood associated vegetation are unique natural and visual resource and shall be conserved.

The project has been redesigned to eliminate the expanded rear patio, locating the rear retaining wall further from the existing redwood grove.

Goal 4.5.0: Energy and water conservation should be promoted through appropriate building, land use and transportation policies.

The project incorporates green building techniques, solar energy and native/water efficient landscaping.

Goal 5.1.0: The basic goal of the Town of Fairfax in adopting the Environmental Safety Element is to prevent loss of life, to reduce injuries and property damage and to minimize economic and social dislocations which may result from earthquakes, other geologic hazards, fires and floods.

The Town Engineer, based on a significant body of engineering information and architectural plans as described above, has determined that the project can be built in a manner that will prevent loss of life, reduce injuries and minimize property damage and dislocations from earthquakes or other geologic hazards, fires and floods.

Goal 5.7.0: It is the goal of the Town of Fairfax to reduce height levels of risk in fire prone areas.

The project site is located within the Wildland-Urban Interface zone which is prone to wildfires. The project incorporates the development of a fire truck turn-out and will include eave protection, roof vent protection and exterior wall construction to comply with the Wildland-Urban Interface Code requirements.

Goal 5.9.0: It is the goal of the Town of Fairfax to minimize flooding in areas prone to inundation.

The project includes the construction of a storm water run-off retention basin to ensure that excessive run-off onto Acacia Road or the neighboring properties does not occur.

2. The Town Engineer has reviewed the project plans, topographic and boundary survey information, the hydrology and geologic reports and other miscellaneous engineering information listed and has determined the following:

- The health safety and welfare of the public will not be adversely affected by the development;
- Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
- Adjacent properties are adequately protected by project design from drainage, seismic and erosion problems as a result of the work;
- The 840 cubic yards of excavation and fill necessary to construct the residence and the required on-site parking on this up-slope lot is the minimum necessary to allow the owners use of their property.

3. The residence will project 28ft above natural grade and will maintain the minimum required 5ft side yard setbacks from both neighboring properties at 13 and 19 Acacia

Road. The residence is not located in a significant view corridor as defined by Town Code §17.060.020. Therefore, the visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;

4. Construction of the residence will require the removal of 10 Bay trees and one oak tree. These trees will be replaced by 5 native trees and other landscaping typically found in the area. Therefore, the natural landscaping will not be removed by the project more than is necessary;

5. Town Code § 17.072.090(C)(4) prohibits grading during the rainy season from October 1st through April 1st. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm water runoff nor prolonged exposure of unstable excavated slopes.

6. The project provides two on-site parking spaces and a guest parking space in the driveway as required by Town Code §§ 17.052.(A)(1) and (2). The project also includes a fire-truck turn out to improve emergency vehicle access to the site and the surrounding Acacia Road neighborhood. Therefore, vehicular access and parking are adequate.

7. The site is 42ft wide and has a 50% slope. Due to the narrow width and steep slope, the strict application of the 20ft combined side yard setback requirement and the 6ft front setback requirement will deprive the applicants of the ability to develop their property which is a privilege enjoyed by other property owners in the vicinity and under identical zone classification.

8. Other narrow sloped properties in the neighborhood have been granted side and front yard setback variances. The development maintains the required minimum 5ft side setbacks and only the driveway wing-walls are located within the required 6ft front setbacks. Therefore, the variance 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.

9. The strict application of the Zoning Ordinance setback requirements would preclude the property owners from developing their lot which would be an excessive or unreasonable hardship.

10. 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 because the proposed residence will not change the single-family character or the development density of the neighborhood.

11. The proposed development is consistent with the General Plan and Zoning Ordinance which have designated the property for development with a single-family residence.

12. The proposed 1,766-square-foot, three-story, residence and 790-square-foot garage is of a similar square footage to other development in the area, harmonizes with the surrounding residential development, and does not result in the deterioration of significant view corridors.

NOW, THEREFORE, the Planning Commission of the Town of Fairfax does hereby resolve as follows:

Section 1. After careful consideration of the site plan, architectural drawings, plans and other exhibits submitted in connection with this matter, approval of the application by Ted Pugh and Ricki Kerner for a single-family residence, is hereby granted subject to the following conditions:

Community Development

1. This approval is limited to the development illustrated on the plans prepared by Jeff Kroot Architect and Associates, pages 1 through 4 dated received December 3, 2008; site improvements, grading and drainage plans by J.L. Hallberg, registered professional engineer, pages C1 through C3, dated January 2008; record of survey by J.L. Engineering recorded October 31, 2006; Hydrology maps by I.L.S Associates Inc., pages 1 of 1 and 1 of 2 dated January 25, 2008; landscaping plans by Shades of Green Landscape Architecture, pages L1.1 and L1.2 dated February 2008; and discussed in the following project engineering reports:

From the Geotechnical Engineer, Herzog Geotechnical –

- 7/25/07 original geotechnical investigation
- 9/5/07 geotechnical review of design concept
- 12/18/07 response to Town Engineer's 9/2/07 memorandum
- 5/7/08 response to Town Engineer's 5/1/08 memorandum
- 8/18/08 clarification of stability issues

From the Hydrology and Drainage Engineer, ILS Associates, INC. –

- 12/17/07 original hydrology report
- 3/27/08 comments on sheet C1 of the project plans

From the consulting Structural Engineer, BHW Engineer LLC –

- 8/22/07 preliminary technical comments and design recommendations
- 1/10/08 response to Town Engineer's 11/1/07 memorandum
- 3/31/08 additional information regarding necessity for rear retaining walls and patio
- 5/6/08 response to Town Engineer's 5/1/08 memorandum

J.L. Engineering's letters regarding excavation amounts for different aspects of the project including the final amounts contained in his 9/10/08 letter

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: a) Construction delivery routes approved by the Department of Public Works; b) Construction schedule (deliveries, worker hours, etc.); c) Notification to area residents; and c) Emergency access routes.
 - b) Submit a letter of credit or bond to the Town in an amount that will cover the cost of grading, weatherization and repair of roadway damage associated with project construction. 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.
 - c) The project 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 Engineer.
 - d) 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 engineer.
 - e) All retaining walls that are visible from the adjacent street and are constructed of concrete, shall be heavily textured in a manner approved by the Design Review Board prior to the issuance of the building permit. This condition is intended to mitigate the visual impact of the proposed walls and shall be approved prior to issuance of the building permit.
 - f) 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.
 - g) The applicant shall secure a tree cutting permit, if required, from the Town 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 an International Society of Arborists (ISA) certified 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.

- h) Submit two copies of a record of survey subject to review by the Town Engineer and the Public Works Director prior to issuance of the building permit.
3. During the construction process the following shall be required:
- a) The geotechnical engineer shall be on-site each day during the grading process and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.
 - 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. The building official shall field check the concrete forms prior to the pour.
 - c) 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 waved by the building official on a case by case basis with prior notification from the project sponsor.
 - d) 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. 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 Town Engineer shall field check the completed project to verify that the work has been installed as per his recommendations to the Planning Commission.
 - c) 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.
5. Excavation shall not occur between October 1st and April 1st. The Town Engineer

has the authority to waive this condition depending upon the weather.

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, developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance 637 (Chapter 8.32 of the Town Code), "Urban Run-off Pollution Prevention."
8. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Resolution 16-19 by the Planning Commission. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 16-16 will result in the job being immediately stopped and red tagged.
9. Any damages to the roadway resulting from construction activities shall be the responsibility of the property owner. The owner or contractor shall videotape or otherwise document as approved by the Public Works Director, the existing condition of the roads in the vicinity of the site prior to starting construction of the residence. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.
10. 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.

11. The applicants shall obtain Design Review Board approval prior to submitting an application for a building permit. (Question-isn't the Planning Commission giving this approval with the action?)
12. The applicant shall obtain a driveway width variance from the Town Council prior to submitting an application for a building permit.
13. The applicants shall submit a \$5,000 payment for the Town Engineer's services to review the building permit plans and to perform required site inspections when submitting the project building permit application. Any unused monies will be refunded.
14. The parking is approved per the Attachment J to the June 16, 2016, staff report which shows the guest space as an 8 foot by 18 foot compact stall.

ROSS VALLEY FIRE DEPARTMENT

1. A sprinkler system shall be installed that complies with the requirements of the National Fire Protection Association 13-D.
2. Smoke detectors are required and all detectors shall be interconnected and provided with AC power. Detectors shall be located in compliance with the requirements of the Ross Valley Fire Department.
3. All roof coverings shall be Class A rated assemblies as defined in the Uniform Building code.
4. The property address shall be posted with illuminated numerals at least 4" high in a location visible from the street.
5. During Construction, combustible debris shall not be accumulated within the building or around the exterior of the building.
6. The photovoltaic system shall have all system components and shut-offs accessible from the exterior of the building with all shut-offs clearly marked and a shut off will be placed at the solar panels on the roof de-energizing all wiring from the panels to the conversion equipment. A fire department inspection shall be made prior to the project final inspection.

TOWN ENGINEER

1. The building plans shall be reviewed by the Town Engineer for compliance with his requirements, prior to issuance of the building permit. The applicant shall pay for the Town Engineer's time to review the plans and perform inspections at a rate of

\$96.00 per hour.

2. The applicants shall comply with any and all requirements of the Town Engineer prior to issuance of the building permit, during construction and prior to the project final.
3. The applicants shall comply with the Geotechnical Engineer's guidelines for excavation as described in his memorandums dated July 25, 2007, when grading the site.
4. The applicant shall comply with any and all other requirements placed upon the project by the Town Engineer prior to issuance of the building permit and during construction.

MARIN MUNICIPAL WATER DISTRICT

1. Complete a High Pressure Water service Application.
1. Submit a copy of the building permit.
2. Pay the required fees.
3. Complete the structure's foundation within 120 days of the date of application.
4. Comply with the District's rules and regulations in effect at the time service is requested.
5. Comply with the backflow prevention requirements if warranted.
6. All landscaping and irrigation plans must comply with Water District Ordinance # 385.

ROSS VALLEY SANITARY DISTRICT

1. A sewer permit is required and may be issued by the District after the building permit is obtained and all appropriate fees have been paid.
2. Installation of the private sewer lateral must meet District specifications and be inspected by a District inspector before it is covered.

PUBLIC WORKS DEPARTMENT

A recorded copy of the "License Agreement to Permit Revocable Encroachment on Town Property" for the improvements in the public right-of-way shall be provided to the Town Prior to issuance of the building permit.

PASSED AND ADOPTED by the Town of Fairfax Planning Commission, State of California, this 16th day of June, 2016, by the following roll call vote:

AYES:
NOES:
ABSTAIN:

Chair, Laura Kehrlein

ATTEST:

Jim Moore, Director of Planning and Building Services

ACACIA ROAD

FAIRFAX, CA

Application

Submitted October 4, 2007

Revised Submittals:

January 16, 2008

March 3, 2008

April 3, 2008

May 8 and June 18, 2008

September 10, 2008

ATTACHMENT B

Ricki Kerner & Ted Pugh

160 Monterey Blvd., #16, San Francisco, CA 94131
Mailing address: P.O. Box 2410, San Francisco, CA 94126
Telephone: 415-710-7161 Fax: 510-231-1014
E-mail: tedpugh@msn.com

September 10, 2008

TOWN OF FAIRFAX
Planning Department
142 Bolinas Road
Fairfax, CA 94930

Attn: Linda Neal
Senior Planner

Re: Supplemental Application Information
Acacia Road lot, APN 110-112-31

Dear Ms. Neal:

Thank you for your letter of June 6, 2008 with the town engineer's memo of June 5th. In response to your letter, we worked out a meeting agenda with Mr. Wrynski to address his concerns and reach consensus to enable our application to be deemed complete.

We met with you, Ann Welsh and Mr. Wrynski on August 6th. During the meeting, Mr. Wrynski's concerns were discussed in great detail and our engineering team, Craig Herzog, Jay Hallberg and Paul Pieri, proposed revisions to him. In accordance with Mr. Wrynski's suggestions, we propose a full redesign of the former upper/lower patio areas behind and upslope of the home. A stair landing replaces the lower patio area. Natural grade is utilized for a planter with stairs closer to the house leading to a smaller upper lawn area. Wall excavation near the redwood trees is eliminated.

Enclosed are 14 copies of the following information, and this letter containing the technical points:

- *Site Improvement, Grading and Drainage Plan*, "Civil Site Plan", Sheets C1 & C2, C3
J.L. Engineering;
- *Architectural Site Plan*, consisting of revised sheets 1-4, and landscaping plan sheets L1.1&2;
- *Letter dated August 18, 2008*, Herzog Geotechnical;
- *Memo dated September 8, 2008*, J.L. Engineering.

The site plans are intended to replace the like sheets submitted on May 8th, to be collated for distribution with the new material and information already in your file. I will perform the update at town hall by substituting the revised material.

The following responses are close to the order in Mr. Wrynski's June 5th memo and email and also as discussed at the August 6th engineering meeting:

1. *Soil stability concern*. Please refer to the Herzog letter of August 18 2008, that was reviewed and agreed for acceptable content at the meeting to address this concern. In line with this, the previous two walls and lower patio area have been eliminated, and both the former lower and upper patio walls are combined into one exterior rear wall that is under five feet high for minimal excavation. This wall is now over 10 feet on average further down slope of the previous wall locations, as requested by Mr. Wrynski.

Ricki Kerner & Ted Pugh

Memorandum

To: Town of Fairfax
Linda Neal, *Senior Planner*
Ann Welsh, *Planning Director*

From: Ricki Kerner & Ted Pugh
Applicants

Subject: Acacia Road Lot
4th Level Exception

Date: April 16, 2008

RECEIVED
APR 17 2008
TOWN OF FAIRFAX

This memo is a follow up to our meeting last month and discussion about the application for our home on Acacia Road. The home at 159 Forrest Avenue in Fairfax was brought up as having a 4th level that would not be acceptable today under the town's ordinance. We want to address any concern that this home's 4th level and the mezzanine loft we're requesting might appear comparable, as we believe our situation is quite different.

According to Rich Rushton of Rushton Chartock Architects, the home's designer, the Forrest Avenue home has 1,960 square feet of livable area of which 657 square feet is on the 4th floor. This full floor contains three bedrooms and one bath. From the road, it appears as a separate and distinct floor with dormer windows facing the road, hence the town's concern about visual impact, aesthetic appearance, and that light emitted from this level could be seen from afar. The home is relatively close to the road.

With our proposed home's 4th level exception, we request that the following be considered:

- The loft in the attic area is one third the size of the Forrest Avenue home's 4th floor;
- It will be open to the floor below, typical for mezzanines, and contained within the building;
- The loft essentially replaces floor area given up to create the open area in the floor below to allow two "green" features, whole house ventilation and natural light;
- The loft level will not appear as a distinct level from Acacia Road;
- No light will be emitted from the loft visible from Acacia Road;
- It is an efficient use of part of the available attic space, the rest being for ceiling fan ventilation;
- Due to the lot's angled frontage and deep town R.O.W for the fire department turn out, the house will be set back from the road, and that helps create an appealing aesthetic.

Our home is smaller and designed as a three level dwelling in appearance and utilization. We do not believe this situation is comparable to the 159 Forrest Avenue home's 4th level issues. Please refer to the variance statement and findings submitted earlier and our memo regarding 32 Hill Avenue for more information.

Ricki Kerner & Ted Pugh

RECEIVED

MAR 27 2008

TOWN OF FAIRFAX

Memorandum

To: Town of Fairfax
Linda Neal, *Senior Planner*
Ann Welsh, *Planning Director*

From: Ricki Kerner & Ted Pugh
Ricki Kerner & *Ted Pugh*
Applicants

Subject: Acacia Road Lot
Excavation

Date: March 27, 2008

Thank you for the opportunity to meet last week and discuss the application for our home on Acacia Road. This memorandum is in response to the issue raised regarding excavation for the lower retaining wall and patio at the rear and upslope of the house.

We have discussed your concern with our engineers to provide a response. The lower retaining wall that you have called into question has two functions. The first is to retain the unstable upslope hillside from soils creep downslope, to be accomplished in conjunction with a second upslope wall. Both of the walls are curved for additional strength, like a dam for a reservoir. This helps to reinforce the area, particularly around the redwood trees, to ensure their long-term protection. Second, the design would provide a failsafe separate water collection and drainage system that augments the drainage system designed into the main retaining wall foundation. The lower patio is also intended to provide a level area to house a 500-1,000 gallon cistern to retain water to mitigate a 100-year rain event. To avoid the additional excavation for this cistern, it would be installed in the home's utility area that's already excavated, and designed as part of the overall "green" rainwater/gray water circulation system that was originally to be served by a separate cistern. Although we believe both these retention systems can be integrated and function together, it has been recommended we preserve the option to install a second cistern under the patio area if necessary. Incidentally, to keep the excavation in context, the lower patio soil removal is estimated at 35 cubic yards, or 4% of the total.

We expect to provide for you memos from the engineers that address the comments made above.

From the outset of the project last summer, we have understood the town's ordinance that aims to minimize the excavation of soil and our engineers are aware of this goal. With this requirement in mind, and in the effort to stabilize and properly drain the hillside, our civil engineering team for soils, hydrology, and structural have collectively contributed to designing a solution for hillside stabilization, drainage and infrastructure, to arrive at the design of the infrastructure as proposed in our application, aimed to ensure long-term soil stability with drainage incorporated into the structures. We believe the design's conservative approach is warranted to address drainage issues, past, present and future.

Based upon the above information and our responses to the town engineer's questions and concerns contained in our submittals of January 16 and February 28, 2008, we believe that we have addressed the outstanding issues. If you believe it appropriate, this memo could be provided to the town engineer in the event its contents will help him frame his comments that are expected soon.

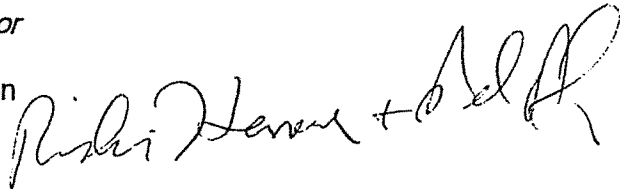
Ricki Kerner & Ted Pugh

Memorandum

To: Town of Fairfax
Linda Neal, *Senior Planner*
Ann Welsh, *Planning Director*

Fairfax Planning Commission

From: Ricki Kerner & Ted Pugh
Applicants



Subject: Acacia Road Lot
Height Variance/Exception

Date: March 19, 2008

This memorandum provides some additional thoughts regarding our requested height variance. It is in response to the planning department's February 15, 2008 letter and statement that it is unlikely staff will be able to make findings to support a height variance.

3 Story Versus 4 Story

Please refer to the building's cross section. The home as proposed is a 3 story building, with the first level housing the garage and utility area. The second level contains a living/family room, bedroom and bath, and the third level a kitchen/dining area, second bedroom, bath, and at the rear, an attic area. Due to the required design of the retaining wall/foundation, much of the house is below the natural grade, creating unique air circulation, ventilation and natural light issues. A circulation fan will be used to move air from the second and third levels, via a large open area in the floor, and will be mounted in the front part of the attic in front of the mezzanine, which will be open to the level below.

We agree that the mezzanine loft in the rear part of the attic, when combined with the levels below, makes the rear portion of the home four levels. Granting the variance or an exception would not be allowing a 4 story home *per se*, but instead would allow a one room loft area in what, in effect, would be located in the structure's attic, already part of the two level livable area. It is "a one room level." Whether the mezzanine is installed or not, there's no change to the home's exterior appearance.

Reducing the ceiling height of the utility area and that part of the garage beneath the mezzanine so it isn't considered a level, is possible. The first level in the rear part of the house would start with the living area, then second and third levels would include the kitchen and mezzanine areas. In this circumstance, isn't limiting utilization of the utility area to accomplish this bringing no material benefit?

A Comparison

It appears the findings and recommendations for recent approval of a height variance for a home at 32 Hill Avenue may be comparable with circumstances that support our requested height variance and exception for Acacia Road. The table below sets forth a relative comparison of facts and findings for both properties.

Comparative Height Variance			
32 Hill Avenue		Acacia Road	
Fact	Finding	Fact	Finding
2 Story Zone, RD 5.5-7	3 rd Level Variance	3 Story Zone, RS 6	4 th Level Variance
1 st level partially underground	1 st level non-livable area, 1,143 sf	1 st Level 100% underground	1 st level non-livable area, 706 useable sf
Portion of new 3 rd level subject to height variance, new addition	253 sf 3 rd story subject to height variance of 688 sf 3 rd level addition	Portion of 4 th level subject to height variance, new home	211 sf mezzanine loft subject to height variance
Street Appearance unchanged	Difference in number of stories not visible from the front	Street Appearance unchanged	Difference in number of stories not visible from the front
Neighbors' Privacy	Unaffected by design	Neighbors' Privacy	Unaffected by design

In each case, strict application of the town's height regulation, if applied, would not allow the proposed construction, given that both homes comply with their maximum height limits set forth in the zoning ordinance.


In addition to the above information, we believe the Acacia Road lot's special circumstances, as described in the findings of fact submitted earlier with our application, support an exception to allow the mezzanine loft as proposed and would not be a grant of special privileges. For example, it is physically possible to build the 211 square foot area proposed for the mezzanine loft behind and part of the house's third level. However, to do so would require more excavation and the retaining wall/foundation would be closer to the redwood trees. This would create a hardship, in as much as the placement of the main retaining wall/foundation called for by the engineers keeps the structure at a pre-determined distance from the redwood trees while accomplishing its job. One of the patio retaining walls, also part of the hillside stabilization, is closer to the redwoods, but its construction is on piers requiring minimal excavation or disturbance of the area proximate to the redwoods.

We respectfully request the planning department consider this information.

Ricki Kerner & Ted Pugh

Memorandum

To: Town of Fairfax
Planning Department and Commission
Attn: Linda Neal, *Senior Planner*

From: Ricki Kerner & Ted Pugh 
Applicants

Subject: 15 Acacia Road lot
Project Memo – Variances

Date: January 16, 2008

Our application for approval to build a new home on a lot we own on Acacia Road was submitted on October 4, 2007 with supplemental questionnaires for two variances, plus HRD permit and design review information included. Working with the town's planning staff during the process to complete the application for planning commission consideration, we were informed of the need for three additional variances, each of which is described in supplemental questionnaires with findings, statements of fact, etc. We understand that a separate variance for driveway width will be considered by the town council. Its findings are similar to those for the retaining wall heights. This leaves four variances that will be reviewed by the town's planning commission.

In effect, the four variances are inter-related. Accordingly, to assemble the project's review package, the four variance's support information and findings, together with write-ups on the HRD permit and design review criteria are grouped together as one document. The supplemental questionnaires are separately grouped together. This is done to help simplify review, given the common thread among many of the findings, statements of fact and conclusions the commission is being asked to consider. The following information, in order, is attached:

- Design Review Criteria - applicability
- HRD Overlay Zone Development Standards
- Variances (2) – Excavation and Side Yard Setback, single questionnaire
- Variance – Retaining Wall Heights
- Variance – 4th Level Exception

The variance's findings have common elements due to the non-conforming lot's physical issues:

- Physical – narrow width
- Landslide – unstable soils mitigation required
- Design – steep slope and affect on layout
- Tree preservation – location of Coast redwood grove
- Fire Service Turn-out – opportunity to physically provide this feature

The home's proposed design aesthetic was carefully considered as described in the design review and HRD overlay statements. The result is a home of contemporary size that falls well under the permitted height and fits in with the neighborhood. Its foundation, integrated with properly drained retaining walls, offers a long term solution to the hillside's need for soil stabilization. The home will not contribute to an increase in storm water flow. It preserves a grove of century-old Coast redwood trees and provides the neighbors an important safety feature with a new fire service turn-out within proximity to a fire hydrant. It will not contribute to parking congestion.

Numerous "green" building features require creative approaches to design the home so the green elements can be realized, such as creating a utility area to house mechanical equipment, an internal retained water storage cisterns for rainwater catchments, plumbing apparatus, water filtration, HVAC ducting, heat recovery ventilator (HRV), and energy monitoring system, and more.

A photograph collage is included, taken from Sunset Magazine's 2007 green idea home in San Francisco. This typical utility room is chock full of the systems and supporting hardware apparatus that cannot be accommodated anywhere else in the proposed home. The room's garage level location creates an issue with the mezzanine loft. There are three levels in the front portion of the home (garage plus two), and four levels at the rear when the mezzanine is counted. To conform so not to be considered a level, the utility room's ceiling and access must be altered, hindering its utilization. Hence the requested variance to avoid this event.

The home's attic section and open areas in the floors on all living levels will enable installation and use of a solar attic fan for fresh air circulation that will draw fresh air up through the living areas. This design helps reduce use of air conditioning. A considerable portion of the living area is below grade. The windows are configured and placed to admit natural light to the dwelling. Two roof areas will allow separate solar installations, a solar thermal system for hot water, backed up by a tankless hot water heater, and a photovoltaic system for electricity, and will not be visible from the road.

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

_____ foot front yard variance to construct a _____ within _____ feet of the front property line.

_____ foot rear yard variance to construct a _____ within _____ feet of the rear property line.

10 foot side yard variance to construct a INTEGRATED RETAINING WALL AND FOUNDATION/HILLSIDE DRAINAGE SYSTEM within 5 feet of the side property line.

_____ foot creek setback variance to construct a _____ within _____ feet of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.) EXCAVATION VARIANCE FOR GREATER THAN 100 CU. YD. SEE ATTACHED 'VARIANCE' STATEMENT 1

FINDINGS:

- 1. List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

SEE ATTACHED 'FINDINGS' STATEMENT 1

- 2. List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

SEE ATTACHED STATEMENT 2

- 3. Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

SEE ATTACHED STATEMENT 3

Variance - Additional information required.

- Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

SEE ATTACHED STATEMENT 4

Retaining wall Height Variance

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

_____ foot front yard variance to construct a _____ within

_____ feet of the front property line.

_____ foot rear yard variance to construct a _____ within

_____ feet of the rear property line.

_____ foot side yard variance to construct a _____ within

_____ feet of the side property line.

_____ foot creek setback variance to construct a _____ within _____ feet
of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.) CONSTRUCT 8' AND 9' HIGH
RETAINING WALLS WITHIN THE 6' FRONTYARD SETBACK
FINDINGS:

1. List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

SEE ATTACHED 'FINDINGS' STATEMENT 1

2. List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

SEE ATTACHED STATEMENT 2

3. Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

SEE ATTACHED STATEMENT 3

Variance - Additional information required.

- > Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- > Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

SEE ATTACHED STATEMENT 4

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

VARIANCE (S) REQUESTED:

_____ foot front yard variance to construct a _____ within _____ feet of the front property line.

_____ foot rear yard variance to construct a _____ within _____ feet of the rear property line.

_____ foot side yard variance to construct a _____ within _____ feet of the side property line.

_____ foot creek setback variance to construct a _____ within _____ feet of the top of the creek bank.

Other (fence height, building height, parking number or size, etc.) CONSTRUCT A ONE ROOM MEZZANINE LOFT IN THE THIRD LEVEL ATTIC SPACE.
FINDINGS:

- 1. List below special circumstances applicable to the property, including size, shape, topography, location, or surroundings, to show why the variance should be granted; and why the granting of the variance will not be a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone (you may attach a statement).

SEE ATTACHED 'FINDINGS' STATEMENT 1

- 2. List below your reasons why the variance will not materially adversely affect the health or safety of persons residing or working in the neighborhood or be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood (you may attach a statement).

SEE ATTACHED STATEMENT 2

- 3. Explain why complying with the Town Ordinance requirements will be a hardship for the owner.

SEE ATTACHED STATEMENT 3

Variance - Additional information required.

- > Include a cross section through the proposed project depicting the project and the relationship of the proposal to existing features and improvements on adjacent properties.
- > Lot coverage calculation including all structures and raised wooden decks.

In order to approve your project, the Planning Commission must make findings of fact which state that 1) there is a special feature of the site (such as size, shape or slope) which justifies an exception; 2) that the variance is consistent with the treatment of other property in the neighborhood; 3) that strict enforcement of the ordinance would cause a hardship; and 4) that the project is in the general public interest.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

SEE ATTACHED STATEMENT 4

SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

- 1. Exterior finish: HORIZONTAL SIDING AND STUCCO
- 2. Proposed exterior wall color(s): GRAY AND BROWN
- 3. Proposed exterior trim color: BONE WHITE
- 4. Proposed exterior window color: HUNTER GREEN
- 5. Proposed roof material and color: COMPOSITION SHINGLES/BLACK
- 6. Special features: HARVEST WHEAT - RETAINING WALLS
- 7. Lot Coverage: 17.89%
- 8. Number of existing parking spaces and their sizes: NONE
- 9. Number of proposed parking spaces and their sizes: 4+ 9'x19'+

DESIGN REVIEW APPLICABILITY

1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

3. 50% remodels of additions to residential properties

DESIGN REVIEW CRITERIA

The project to build the proposed residence meets the town's design review criteria, set forth in section #17.020.040 of the Fairfax Zoning Ordinance in these ways:

- ✦ The angled front property line requires the house to be positioned as proposed once the site's unstable soil is removed. It conforms to the adjacent homes at 13 and 19 Acacia Road by setting the front elevation out of direct alignment with these neighbors, while respecting the privacy of the higher elevation home at 7 Acacia Road;
- ✦ The residence is in proportion to the building site with minimal frontal elevation. At 32 feet, including the foundation/retaining walls, it will be among the narrowest homes on Acacia Road;
- ✦ The home's design aesthetic is intended to comport with 18 and 19 Acacia Road, but with a more contemporary, yet traditional appearance, featuring clean lines and overall height that melds into the hillside, several feet below the allowable 28.5 foot height ceiling;
- ✦ To conform to the design and appearance of the area's varied homes, and avoid monotony, the proposed home's color pallet will take into account the area's subdued browns, tans, and greens;
- ✦ With the exception of damaged and unstable bay trees that will be removed, all remaining trees and natural features, including a grove of century-old Coast redwood trees, will be preserved;
- ✦ Excepting the newer Acacia Road homes that have larger garages but minimal off-street parking, the proposed home will allow up to four parking spaces (two enclosed) that conform to the town's parking accessibility and size requirements;
- ✦ The landscaping plan will emphasize natural and native plantings, including a roof garden, all sustained by an integrated recirculation rainwater/gray water collection system;
- ✦ Over 200 cubic yards of natural clay soils to be excavated will be recycled into bricks, pavers, and accents that will combine with the home's design to create a rustic and harmonious appearance, complementary with the neighbors. Excess recycled bricks and pavers will be made available to the public.