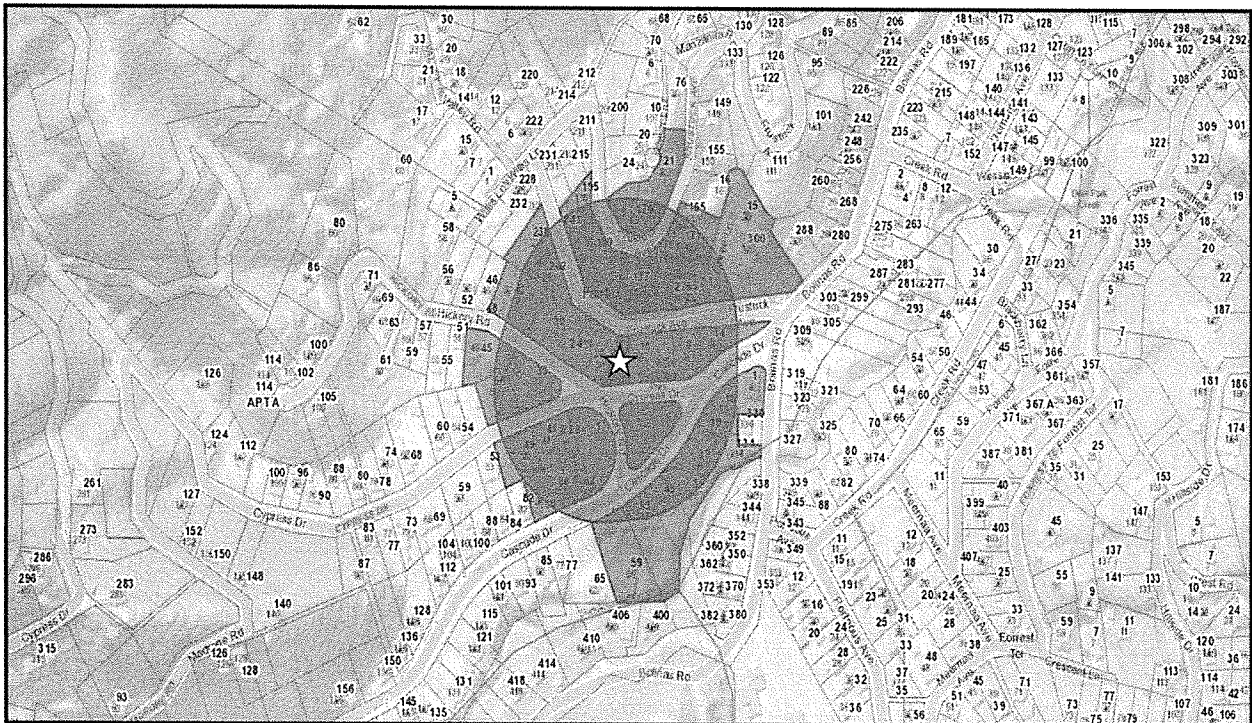


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: August 18, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 20 Cypress Drive; Assessor's Parcel No. 003-202-04
ZONING: Residential Single-family RS 6 Zone District
PROJECT: Enclosure and conversion of a porch to a dining room
ACTION: Use Permit; Application # 16-31
APPLICANT: Wendy Kirk-Scalise
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(e)(1)



20 Cypress Drive

BACKGROUND

The 5,175 square foot, level site (6% slope) is developed with a 1,089-square foot, 2-bedroom, 1-bath residence and a 200-square-foot garage that were constructed in 1925. The site is lot number 7 of the subdivision map, "Map No. 1 of the Cascades" filed for record at the Marin County Recorder's Office on August 4, 1914.

DISCUSSION

The proposed project encompasses enclosing the 132-square-foot porch to convert it to a dining room. The conversion will increase the square footage of the residence to 1,221 square-feet and will include the construction of a new entry deck and stairs at the front, southeast corner of the house. The project conforms to the Residential Single-family RS-6 Zone District regulations as follows:

	front setback	Rear setback	Combined front/rear setback	Side setbacks	Combined side setbacks	FAR	Lot coverage	height
Permitted	6 ft.	6 ft.	25 ft.	5 ft. & 5 ft.	15 ft	.40	.35	28.5 ft., 2 stories
existing	19 ft.	10 ft.	29 ft.	1 ft. & 3 in.	1 ft. 3in.	.21	.37	16 ft., 1 story
proposed	15 ft.	10 ft.	25 ft.	same	same	.23	same	same

The project requires the approval of the following discretionary permits:

A Use Permit:

Town Code § 17.084.050 requires that a Use Permit be obtained prior to any expansion/modification of a residence on a parcel that is not 5,500 square feet in size and 60 feet wide. Therefore, the conversion of the open porch to living space on this 5,175-square-foot, 25.8-foot-wide site requires the approval of a Use Permit by the Planning Commission.

In order to approve a Use Permit for the project the Commission must be able to determine that the addition will not result in the property or the structure being out of scale with the site or out of character with the neighboring properties.

Conversion of the porch to living space will result in this residence, one of the smallest in the immediate neighborhood, still being one of the smallest houses in the neighborhood. Other homes on similar sized parcels in the area range in size from a 1,340-square-foot, 2-bedroom, 1 ½-bathroom, residence (16 Cypress Drive) to a 2,544-square-foot, 2-bedroom, 3-bathroom residence on a 4,028-square-foot parcel (69 Hickory Road). Therefore, the proposed project is not out of character with the neighborhood and will not result in the residence being out of scale with the site.

Lot Coverage

Town Code § 17.040.010, Lot Coverage, limits the area of parcels that can be covered with buildings to 35% (a building is defined as, "A structure which is designated and suitable for the habitation or shelter of human beings or animals, or the shelter or storage of property, or for use and occupation for some purpose of trade or manufacture" (Town Code § 17.008.020, Definition of Building). Therefore, this project will not increase the lot coverage of the site beyond the legal non-conforming 37% lot coverage currently maintained on the site.

The new entry deck does not count towards the lot coverage amount because it is permeable (Town Code § 17.008.020, Definition of Lot Coverage).

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
2. Carbon monoxide alarms shall be provided.
3. Maintain around the structure an effective firebreak by removing and clearing all flammable vegetation and/or other combustible growth. Obtain approval of a Vegetative Management Plan (VMP) in compliance with Ross Valley Fire Protection Standard 220, Vegetation/Fuels Management.
4. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.
5. The project is required to obtain a final inspection by the Ross Valley Fire Department prior to applying to obtain the final building inspection.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.

2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device.
2. Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requirement a landscape plan, an irrigation plan, and a grading plan.
3. Should backflow protection be required, said protection shall be installed as a condition of water service.

Note: the Fairfax Police, Public Works and Building Departments had no comment on the project.

RECOMMENDATION

Move to approve application # 16-31 by adopting Resolution No. 16-26 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Exhibit A – Resolution No. 16-26

Exhibit B - Applicant's supplemental information

RESOLUTION NO. 16-26

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow Enclosure of the 132-square-foot Porch to Facilitate the Conversion of the area to a Dining Room and Construction of New Entry Stairs at 20 Cypress Drive

WHEREAS, the Town of Fairfax has received a request to enclose the front porch at 20 Cypress Drive to convert the area to a dining room with new entry stairs expanding the existing 1,089-square-foot residence to a 1,221-square-foot residence; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on August 18th, 2016, at which time the Planning Commission determined that the proposed project conforms with the Fairfax Zoning Ordinance regulations; 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 project.

WHEREAS, the Commission has made the following findings:

1. The project results in an expanded structure (deck) that maintains the required setbacks, Floor Area Ratio (FAR) and does not increase the existing, legal non-conforming 37% Lot Coverage. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The development and use of the property as approved under the use permit will be located a considerable distance from adjoining properties and will be screened by existing vegetation. Therefore, the project 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.
3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained in the 2010 – 2030 Fairfax General Plan or set forth in the Town Code, particularly those regulations set forth for properties located in the Residential Single-family RS 6 Zone District.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case.

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

1. This approval is limited to the development illustrated on the plans prepared by Wilkinson Design and Construction, final revision date 6/21/16, Fairfax CA 94930", Sheets A-1 through A-6.
2. During the construction process, all construction-related vehicles including fixture/supply or equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case-by-case basis with prior notification from the project sponsor.
3. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
4. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.
5. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.
6. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
7. During construction, the developer and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.26 of the Town Code Chapter 8.32, "Urban Runoff Pollution Prevention".
8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 16-31. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 16-31 will result in the job being immediately stopped and red tagged.
9. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or

any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees.

Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

Ross Valley Fire Department

1. The site shall comply with the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan by maintaining an effective firebreak/defensible space zone of 30 to 100 feet around the site structures.
2. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alteration, repairs or additions that exceed \$1,000. Carbon monoxide alarms shall be located outside each dwelling unit sleeping area, in the immediate vicinity of bedroom(s) and on every level of a dwelling unit including basements.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated, placed next to a light or be reflective numbers.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device.
2. A Sanitary District sewer connection permit is required to either replace the existing sewer lateral, or demonstrate to a District Inspector that the existing lateral meets current requirements, prior to the project final inspection and issuance of an occupancy permit for the residence.

Miscellaneous Conditions

1. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
2. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing. '
3. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.
4. A construction management plan shall be submitted to the Building Official with the building permit application and shall become a condition of building permit issuance.
5. All exterior lighting, including landscape lighting, shall be LED and shall direct light downward.

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

The approval of the Use Permit can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th, day of August, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Laura Kehrlein

Attest:

Jim Moore, Director of Planning and Building Services

✓ Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

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

convert existing front porch to
dining area, same footprint,
new finishes

The final disposition of each use permit shall be in accordance with the facts of the particular case, and such facts must support the following determinations and findings before a use permit may be approved. Indicate how the findings below can be made:

- The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

I am doing everything to comply
with this issue

- The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

I am mostly putting in windows on an already
established footprint

- Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town.

not to my awareness am I doing anything
contradictory to plans or policies of Fairfax