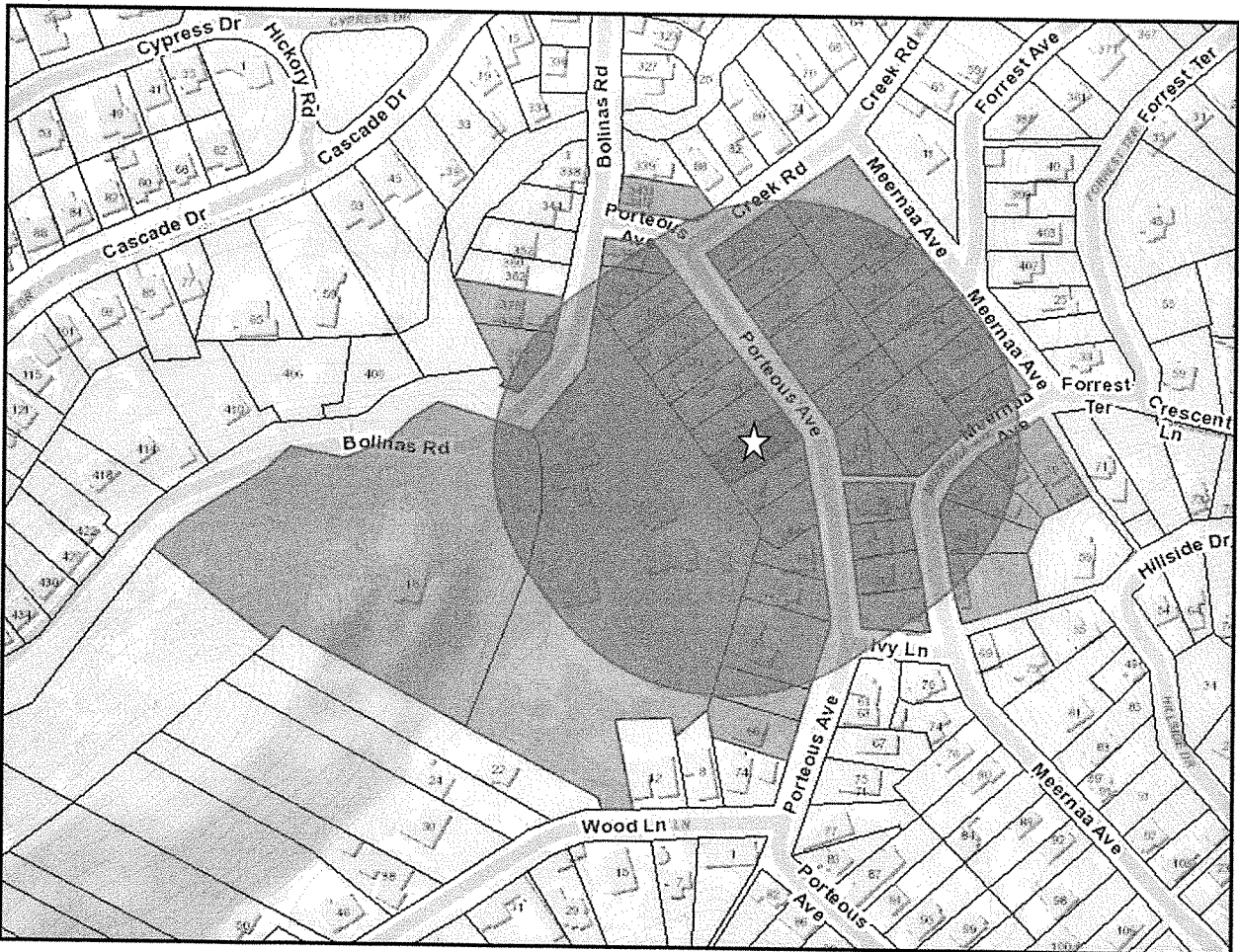


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: November 18, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 32 Porteous Avenue; Assessor's Parcel No. 002-041-04
ZONING: Residential RD 5.5-7 Zone
PROJECT: Fifty (50%) percent addition/Remodel
ACTION: Use Permit and Design Review; application # 15-33
APPLICANT: Ann Bool, Designer
OWNER: Kirk and Linda Kepley
CEQA STATUS: Categorically exempt, § 15301(e)(1)



32 PORTEOUS AVENUE

BACKGROUND

The 6,250 square foot site is level and was created by the adoption of Map No. 1 of Deer Park Subdivision by the County of Marin on December 26, 1907. The 2 bedroom, 1 bath residence was constructed in 1974 and a living/family room was added in 1981 bringing the square footage to 1,383 square feet. The record is not clear on when a carport was built on the site but it was replaced with a 291 square foot garage in 2011.

The Commission approved a different project for the previous owner in March of this year. That project was never built.

DISCUSSION

The proposed project encompasses the remodel and expansion of a 1,383 square foot, 2 bedroom, 1 bath, single-family residence into a 1,691 square foot, three bedroom, 2 bath, single-family residence.

The project complies with the regulations set forth in the Residential RD 5.5-7 Zone District where the site is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	6 ft	25 ft	5 ft & 5 ft	15 ft	.40	.35	28.5ft, 2 stories
Existing	22 ft	45 ft	67 ft	5 ft & 12 ft	17 ft	.23	.29	16 feet, 1 story
Proposed	same	40 ft	62 ft	5 ft & 10 ft	15 ft	.27	.32	same

Conditional Use Permit: The project requires the approval of a Conditional Use Permit. Town Code § 17.084.050(A) requires that a Use Permit be obtained prior to any modification, improvement or expansion on a property failing to meet the minimum 60 foot width requirement. The project site is only 50 feet wide and the project involves expansion of the home and installation of improvements in the rear yard. Therefore, the project requires the approval of a Use Permit.

The purpose of the Use Permit process is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the Town or in a zone or only if the uses are designed or laid out on the site in a particular manner. In considering a request for a Use Permit the Commission should give due regard to the nature and condition of all adjacent uses and structures, to the physical environment and to all pertinent aspects of the public health, safety and general welfare.

Homes in the neighborhood on parcels also 6,250 square feet in size range from a 1000 square foot, 2 bedroom 1 bath residence (24 Porteous) to a 2,543 square foot 2 bedroom, 2 ½ bath residence (64 Porteous). The proposed 1,691 square foot 3 bedroom, 2 bathroom residence will fit in with the surrounding neighborhood and is not out of proportion with the 6,250 square foot site.

The project constitutes a 50% remodel. Town Code §17.016.040(c) indicates that a 50% remodel to a residence, or a project that adds a bedroom, on a non-conforming property can only occur if the parking is brought into compliance with the current code or if the Planning Commission grants the property and project a parking variance. To comply with the current parking regulations the applicants propose widening the driveway to accommodate two vehicles with a third space available in the existing garage [Town Code sections 17.052.17.052.030(A)(1)(d) and (2)].

Design Review: Town Code §17.020.030(A) requires that residential projects that constitute 50% remodels require design review approval. This project is a 50% remodel and therefore is required to comply with the design review criteria set forth in Town Code §17.020.040(A) through (M).

The proposed addition will have board and batten siding painted to match the existing residence with windows of various sized. Two of the windows in the new addition on the north side of the structure where it is closest to a neighboring house at 28 Porteous Avenue will be clear story windows. The top of the other two standard windows will be screened by the 6 foot fence between the properties.

The roof of the addition will be flat and will match the roofline of the adjacent structure.

Staff has determined that the proposed design and location of the addition complies with the design review criteria.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. A fire sprinkler system shall be installed throughout the building which complies with the requirements of the National Fire Protection Association (NFPA) 13D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design build sprinkler systems.
2. A vegetative management plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan which is required to be submitted directly to the Fire Department for review.

3. The property is located in the wildland urban interface area of the Town and therefore, the project shall be in compliance with Chapter 49 of the California Fire Code.
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 sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of 1 detector per story of the occupied portions of the residence.
5. Carbon monoxide alarms shall be provided in the dwelling. The alarms shall be located outside of each dwelling unit sleeping area in the immediate vicinity of the bedrooms.
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 are required. The project is a substantial remodel so the numbers must be internally illuminated or be illuminated by an adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.

Marin Municipal Water District

1. Compliance with all indoor and outdoor requirements of District Code Title 14, - 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.
2. Should backflow protection be required, said protection shall be installed as a condition of water service.

Ross Valley Sanitary District

1. The project will require a connection permit from the District. The size of the lateral will depend on the fixture count calculated during the permitting process. A hold will be placed on the property and the Building Department will not be able to perform a final inspection or issue a certificate of occupancy until the Sanitary District conditions are met.

Fairfax Police and Building Department

The Police and Building Departments had no comments or conditions on/for the project.

RECOMMENDATION

Move to approve application # 15-33 by adopting Resolution 15-32 which sets forth the findings and conditions of approval.

ATTACHMENTS

Attachment A – Resolution No. 15-32

Attachment B – applicant's supplemental information

RESOLUTION NO. 15-33

A Resolution of the Fairfax Planning Commission Approving the Use Permit for a Remodel/Addition to the Existing Single Family Residence at 32 Porteous Avenue

WHEREAS, the Town of Fairfax has received an application for a Use Permit to construct a 50% remodel/addition project increasing the residence at 32 Porteous Avenue from a 1,383 square foot, 2 bedroom, 1 bath, single-family residence into a 1,691 square foot, three bedroom, 2 bath, single-family residence.; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on November 18th, 2015 at which time the Planning Commission approved the Use Permit and the Design Review Permit; and

WHEREAS, based on the plans and supplemental information provided by the applicant, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Use Permit and Design Review Permit; and

WHEREAS, the Commission has made the following findings:

1. The remodel and expansion will not change the single-family character of the site and 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 project includes a first story addition which will not extend closer to any neighboring structures than the existing house. The addition will maintain the required setbacks and will not result in the structure exceeding the permitted Floor Area Ratio or Lot Coverage limitations. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case or contained in the 2010-2030 Fairfax General Plan or Zoning Ordinance.
4. Approval of the use permit will not result in a residence that is out of scale with the project site or significantly dis-similar to other homes in the neighborhood. Therefore, the project will result in equal or better development of the premises than would otherwise be the case, and allowing the owners to improve the structure and property and thus maintain the existing housing stock which is in

the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

5. The proposed development creates a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.
6. The quality and character of the proposed remodel/addition will serving to protect the value of, private and public investments in the immediate area.
7. The proposed addition/remodel conforms to all the development standards in the Residential RD 5.5-7 Zone district where the property is located.
8. Sufficient variety exists in the design of the structures and grounds to avoid monotony in the external appearance of the building.
9. The size and design of the structure is in proportion to its building site and the remodel/addition will result in the house having balance and unity among its external features so as to present a harmonious appearance.
10. The architecture of the structure conforms to the general character of other structures in vicinity.
11. The project will maintain most of the rear yard in its existing state and will not require the removal of any mature trees. Therefore, the project retains the natural and features of the site as much as possible.
12. Widening of the driveway will bring the property into compliance with the current parking ordinance and will not result in the unsafe ingress or egress to or from the public street.

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 Ann Bool, Designer, pages A1, A1.1, A.2 and A3 dated 9/10/15.
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 the following:
 - Construction delivery routes approved by the Department of Public Works.
 - Construction schedule (deliveries, worker hours, etc.)
 - Notification to area residents

- Emergency access routes
 - Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking
- b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).
 - c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of repair of possible roadway damage.
 - d. If required by the Building Department, the foundation elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Building Official.
 - e. If required by the Building Department the grading, foundation, and drainage elements shall also be stamped and signed by the project engineer.
 - 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.
3. During the construction process the following shall be required:
 - a. The building official shall field check the concrete forms prior to the new foundation pour.
 - b. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
 4. 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.
 5. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.

- b. 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 developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."
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 Application # 15-33. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Use Permit 15-33 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 Conditions:

1. A fire sprinkler system shall be installed throughout the building which complies with the requirements of the National Fire Protection Association (NFPA) 13D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design build sprinkler systems.
2. A vegetative management plan designed in accordance with Ross Valley Fire Standard 220 is required for this project. A separate deferred permit shall be required for this plan which is required to be submitted directly to the Fire Department for review.
3. The property is located in the wildland urban interface area of the Town and therefore, the project shall be in compliance with Chapter 49 of the California Fire Code.
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 sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of 1 detector per story of the occupied portions of the residence.
5. Carbon monoxide alarms shall be provided in the dwelling. The alarms shall be located outside of each dwelling unit sleeping area in the immediate vicinity of the bedrooms.
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 are required. The project is a substantial remodel so the numbers must be internally illuminated or be illuminated by an adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.

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. The project will require a connection permit from the District. The size of the lateral will depend on the fixture count calculated during the permitting process. A hold will be placed on the property and the Building Department will not be able

to perform a final inspection or issue a certificate of occupancy until the Sanitary District conditions are met.

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.

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 November, 2015, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Philip Green

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.

The proposed addition does not change property use. The proposed addition is minimal and will not create physical or economic impacts on adjacent properties and the development is similar to other properties in the neighborhood.

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.

The proposed addition does not constitute a grant of special privilege. No variances are requested for floor area, height or setback and development is consistent

- 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. ^{with the neighbors and surrounding properties}

The 308 sf addition will not create a public nuisance or cause excessive detriment. The addition is below what is allowed

- 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.

The residence ~~is not~~ meets the zoning and master plan requirements.

OCT. 14 2015

SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY REVIEW RECEIVED

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: To match existing ; modified board and batten
2. Proposed exterior wall color(s): To match existing ; tan
3. Proposed exterior trim color: To match existing ; tan
4. Proposed exterior window color: To match existing ; dark bronze
5. Proposed roof material and color: To match existing ; flat roof not visible
6. Special features: fascia paint color to match existing
7. Lot Coverage: 2,187 sf allowed, 1,862 (e) sf, 2,042 sf proposed
8. Number of existing parking spaces and their sizes: one 9 x 20 at side of garage; one 12 x 21 covered garage
9. Number of proposed parking spaces and their sizes: one 9 x 20 at side of garage; one 12 x 21 covered garage, one 10 x 20 driveway

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