

TO:	Fairfax Planning Commission
DATE:	September 15, 2016
FROM:	Jim Moore, Director of Planning and Building Services Michelle Levenson, Zoning Technician
LOCATION:	145 Forrest Avenue; Assessor' Parcel No. 002-192-38
ZONING:	Residential RS 6 Zone
PROJECT:	Renovate and Expand (112 square feet) a Single-Family Residence
ACTION:	Application No. 16-35; Conditional Use Permit
APPLICANT:	Erick Mikiten, Mikiten Architecture
OWNER:	Vakil Kuner
CEQA STATUS:	Categorically Exempt, § 15301(a)



BACKGROUND

The 17,346-square-foot lot is located along Forrest Avenue. The site slopes up from Forrest Avenue and has an average slope of 38-percent. The site contains a one-story, 1,671-square-foot single-family residence that is 13-feet, 10-inches in height. An unnamed drainage runs along the western boundary of the site.

In early January 2016, the applicant submitted a preliminary application to Planning Department staff requesting review of and comment on the proposed project. In addition to improvements to the single-family residence, the preliminary application included work to an existing retaining wall along the western boundary of the property. Upon a site inspection of the property in January 2016, staff discovered that in the area of the proposed retaining wall repair, the previous owner(s) had constructed a retaining wall extension without the required approvals.

The wall extension appears to be un-engineered and is attached to several mature redwood trees, endangering the health of the trees and posing potential safety issues to the roadway below. (Attachment C). In a letter dated January 25, 2016 (Attachment D), staff requested additional information regarding the proposed retaining wall repairs including a report by an arborist detailing the present and continued health of the redwood trees.

On June 23, 2016, the applicant submitted the formal application for the project; the formal application did not include repair and legalization of the retaining wall extension. The applicant has stated that while the owner is pursuing repairs to the retaining wall extension in an attempt to legalize the structure, the work will be pursued as a separate project. In a letter dated August 3, 2016, and emails dated August 25, 2016 and September 6, 2016, staff advised the applicant that the retaining wall repair may require discretionary approval(s) by the Planning Commission and that it would be in the best interest of the property owner to revise the planning application and submit the required materials to evaluate and process the improvements to the retaining wall extension with the improvements to the single-family residence.

Staff further informed the applicant that if the projects were pursued separately, staff would likely recommend that the approval issued for the residence be conditioned such that all discretionary approvals and a building permit for the retaining wall would be required as part of the issuance of a building permit for the residence (Attachment E). At this time, the owner wishes to proceed with processing the projects separately. Staff has found that separating home remodeling permits from other required repair permits results in the repair permits not being obtained or, if obtained, not being executed.

DISCUSSION

The June 23, 2016, application and plans (Attachment B) proposed the following improvements to the residence; (1) removing an interior wall creating a combined

living/dining space: (2) extending a rear (southern) wall 4 feet to the south creating 94 square feet of additional area to the combined living/dining area; (3) covering an existing 874-square-foot concrete patio with an 870-square-foot deck; (4) constructing an 18-square-foot master bedroom closet by extending out from the eastern exterior wall by approximately 2 feet; and (3) creating an entry porch, and enclosed foyer and closet by extending the exterior wall approximately 6 feet to the north, and creating an additional 62 square feet of enclosed area. The total additional square footage proposed with the June 23, 2016, proposal was 174 square feet.

On September 6, 2016, the applicant contacted staff regarding revisions to the project. On September 7, 2016, the applicant submitted revised plans for the project; the most current version of the project omits an enclosed foyer and closet, and instead proposes to provide an exterior porch with an arbor (62 square feet) (Attachment F). The total additional square footage with the current proposal is 112 square feet. All other elements of the project remain unchanged from the June 23, 2016 submittal. The plans showing the most recent version of the project and dated September 6, 2016, are not to scale; please refer to the plans dated June 23, 2016, to determine accurate dimensions.

As indicated above, the property is zoned "Residential RS-6". The project complies with the regulations for the RS-6 Zone as follows:

	Front Setback (ft)	Rear Setback (ft)	Combined Front/rear Setback (ft)	Side Setbacks (ft)	Combined Side Setbacks (ft)	FAR	Lot Coverage	Height
Required/ Permitted	6	12	35	5 & 5	20	.40	.35	28.5 feet; 3 stories
Existing	28	92	120	20.5 & 10	30.5	.07	.19	13 feet, 10 inches; 1 story
Proposed	No change	No change	No change	20.5 & 8	28.5	.08	.20	No change

Conditional Use Permit

With regard to the RS-6 Zone, Town Code Section 17.080.050 states that, "...a use permit...must be first secured in the RS-6 Zone for any use, occupancy or physical improvement failing of or on a building site failing to meet the following requirements:...

(C) Building sites having a slope of more than 15 percent shall increase in area above 7,000 square feet, and a minimum width of 65 feet, at a rate of 1,000 square feet of area and three feet of width for each one percent increase in slope..."

The site slope is 38-percent; correspondingly the Town Code requires a minimum

buildable area of 30,000 square feet and a minimum width of 99 feet. The project site is 17,346 square feet in area and 99 feet wide. Because the site does not meet the minimum Code requirements, a Conditional Use Permit (CUP) is required.

The purpose of the CUP process is to allow the proper integration of uses which may only be suitable in certain locations or only if the uses are designed in a particular way [Town Code § 17.032.010(A)]. In consideration of a CUP application, the Commission must make the findings required under Town Code Section 17.032.060 specifically that the granting of a CUP shall (1) not constitute a grant of special privilege or contravene the doctrines of equity and equal treatment; (2) the development and use of the property, as approved under the CUP shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties, cause adverse physical or economic effects or create undue or excessive burdens in the use and enjoyment of neighboring properties; (3) approval of the CUP is not contrary to the goals and standards adopted by the Town; and (4) approval of the CUP will result in equal or better development of the premises that would otherwise be the case and the approval is in the public interest and for the protection or enhancement of the community.

Homes in the immediate neighborhood range in size from a 1,284-square-foot residence containing 2 bedrooms and 1.5 bathrooms on a 14,740-square-foot lot (140 Forrest Avenue) to a 2,324-square-foot residence containing 4 bedrooms and 2.5 bathrooms on a 25,336-square-foot lot (150 Forrest Avenue). The proposed project would result in a 1,783-square-foot, 3-bedroom, 2-bathroom residence. The resultant residence would not be out of scale with other neighboring residences or the property, and would afford the occupant(s) similar amenities to those experienced by neighboring residents. Therefore, the proposed project would not constitute a grant of special privilege or contravene the doctrines of equity and equal treatment.

The addition of the master bathroom would be limited to a 2-foot-wide extension off of the eastern wall of the residence and would maintain an 8-foot setback from the side property line. In addition, the rear extension would be outside of the required rear setback and due to the topography of the site would not be visible from the rear neighboring residence. While the required setbacks would be maintained with the project, the un-authorized retaining wall and the resultant effects on heritage redwood trees as well as potential safety issues could cause adverse physical or economic effects and undue or excessive burdens to neighboring properties if the wall were to fail.

Therefore, staff recommends that the Planning Commission require as a "Condition of Approval" of the project that all discretionary approvals and a building permit for the retaining wall repair and legalization be obtained, prior to, or in conjunction with, the issuance of the building permit for the single-family residence improvements. With implementation of this "Condition of Approval" as well as the location of the proposed residential improvements outside of required setbacks, the proposed project would not cause adverse physical or economic effects or create undue or excessive burdens in the use and enjoyment of neighboring properties.

The 2010-2030 Fairfax General Plan Policies LU-7.2.2 and CON-5.2.1 encourage the retention of native tree species. With the absence of an arborist report as well as a design for the retaining wall repair, it is difficult to determine how the existing wall and any proposed repairs may affect the retention of the existing, mature redwood trees. With the inclusion and implementation of the "Condition of Approval" discussed above, the project would comply with the goals and standards of the Fairfax General Plan, as well as other applicable Town Code and policies.

The implementation of the project would afford the property owner with an enhanced use of outdoor space, and would improve the functionality of the interior of the residence. With the residential improvements as well as legalization and repair of the retaining wall in accord with the recommended "Condition of Approval" the project would result in equal or better development of the premises and would be in the public interest and would protect and enhance the community.

Other Agency/Department Conditions/Comments

Ross Valley Fire Department (RVFD)

1. A 13-D type sprinkler system with added sprinkler heads in the attic, closets and under the rear deck shall be installed throughout the entire building that complies with the requirements of the National Fire Protection Association. Plans and specifications for the system shall be submitted by a licensed design and/or design sprinkler system entity.
2. A Vegetation Management Plan designed in accordance with Ross Valley Fire Standard #220 is required for the project. A separate deferred permit shall be required for this plan and submitted directly to the RVFD for review and approval.
3. All smoke detectors in the house and accessory bedroom/bath 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. The alarm in the accessory structure can be located anywhere in the main room (not in the bathroom).
4. Carbon monoxide alarms shall be provided in residential buildings and shall be located outside of all sleeping areas.
5. Address numbers at least 4" 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 (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described

as part of this project.

Marin Municipal Water District (MMWD)

1. The project 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.
2. 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.
3. Comply with MMWD 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 and the Fairfax Police, Public Works and Building Departments

The Ross Valley Sanitary District, Ross Valley Fire Department, and the Fairfax Police, Public Works and Building Department(s) did not provide conditions of approval or comments on the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve Application No. 16-35 by adopting Resolution No. 16-28, setting forth the findings and conditions for project approval.

ATTACHMENTS

Attachment A – Resolution No. 16-28
Attachment B – Applicants' Information, dated June 23, 2016
Attachment C – Retaining Wall Photos
Attachment D – January 5, 2016 Letter to Applicant
Attachment E – August 3, 2016 Letter to Applicant, and Emails to Applicant dated August 25, 2016 and September 6, 2016
Attachment F – Revised Project Plans, dated September 6, 2016

RESOLUTION NO. 16-28

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit for the Expansion of the Residence at 145 Forrest Avenue

WHEREAS, the Town of Fairfax has received an application to construct a 94-square foot, dining room/living room addition and a 18-square-foot, master bedroom closet addition to an existing 1,671-square-foot, 3-bedroom, 2-bathroom single-family residence increasing the living space to 1,783-square-feet; and

WHEREAS, the house and parking are accessed by a driveway, a portion of which has been widened and retained with an unauthorized retaining wall that has been bolted to and constructed within the drip line of the adjacent redwood trees potentially compromising the health of the heritage redwood trees located northwest of the top of the driveway; and

WHEREAS, the Planning Commission held a duly noticed meeting on September 15, 2016, at which time the Planning Commission determined that the proposed project, as long as the conditions of approval contained within this resolution are met, conforms with the Fairfax General Plan and 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 proposed residence conforms to the regulations set forth in the Residential Single-family RS 6 Zone District.
2. The proposed development does not change the single-family residential character of the neighborhood. Houses in the immediate neighborhood on similarly sized, sloped lots range in size from a 1,284-square-foot, 2-bedroom, 1 ½-bathroom house on a 14,740-square-foot parcel (140 Forrest Avenue) to a 2,324-square-foot, 4-bedroom, 2 ½-bathroom house on a 25,226-square-foot parcel (150 Forrest Avenue). Therefore, the proposed 1,783--square-foot, 3-bedroom, 2-bathroom residence on this 17,346--square-foot site is not out of scale with the property or with other residential structures in the neighborhood.
3. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area once the unpermitted driveway retaining wall is: 1) either removed and the natural bank surrounding the unauthorized structure; or 2) a replacement wall is designed by a licensed engineer in conjunction with an ISA Certified Arborist, is permitted by the Town and constructed in conjunction with the additions to the residence.

4. The project results in a remodeled structure that maintains the required setbacks, height- floor area ratio and lot coverage percentage(s). 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.
5. The development and use of property as approved under the use permit will not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
6. The 2010-2030 Fairfax General Plan, Policies LU-7.2.2, CON-5.2.1 encourage the retention of native tree species. Once the unpermitted wall is redesigned by an engineer in conjunction with recommendations made by an ISA Certified Arborist, approval of the use permit conditioned upon reconstruction of the wall, will not be 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.
7. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case and will result in the reconstruction of an unpermitted retaining wall so that it is in compliance with the Fairfax General Plan, Zoning Ordinance, accepted engineering techniques and the Uniform Building Code.

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 Mikiten Architecture, page T-1.0 (revised 9/6/16), T-2.0 (9/10/15), A-1.0 (revised 9/6/16), A-2.1 (revised 9/6/16), A-3.1 (revised 9/6/16) and A-3.2 (revised 9/6/16).
2. Prior to the issuance of a building permit for the residential improvements, the owner/applicant shall either: (1) include repair of the unpermitted, upper driveway retaining wall in the building permit application for the residential improvements; or (2) submit a separate building permit application for the retaining wall improvements concurrently with the building permit application for the residence.

The building permit application for the retaining wall shall include plans prepared by a licensed engineer, that incorporate mitigation measures contained within a report prepared by an ISA certified Arborist, that will ensure the continued good health of the trees and the associated drip lines that intersect with the upper driveway wall. If the wall design results in improvements that require further approval from the Planning Commission, those discretionary approvals shall be obtained prior to issuance of the building permit for the remodel/wall project. The project will not receive a final

inspection or an occupancy permit until the wall is completed.

3. Secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting that the development conformance with all of their recommendations and conditions.

4. During construction of the new retaining wall the project arborist shall be on-site to ensure any recommended mitigation measures are properly implemented. Prior to the project final inspection, the arborist and engineer shall provide written verification that the project has been constructed in compliance with the approved plans, recommendations and mitigation measures.

5. All construction-related vehicles including equipment delivery, supply delivery and cement trucks, as well as all construction material 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.

6. 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.

7. The following Best Management Practices shall be employed:

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

b. Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.

8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 16-35. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 16-35 will result in the job being immediately stopped and red tagged.

9. Any damages to Forrest Avenue or other public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

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 applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.

12. The applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department. Other agency conditions can be waived by those agencies in writing to the Town Building Department.

13. Other agency/department conditions can be waived by that agency/department in writing to the Fairfax Planning and Building Services Department.

Ross Valley Fire Department (RVFD)

1. A 13-D type sprinkler system with added sprinkler heads in the attic, closets and under the rear deck shall be installed throughout the entire building that complies with the requirements of the National Fire Protection Association. Plans and specifications for the system shall be submitted by a licensed design and/or design sprinkler system entity.
2. A Vegetation Management Plan designed in accordance with Ross Valley Fire Standard #220 is required for the project. A separate deferred permit shall be required for this plan and submitted directly to the RVFD for review and approval.
3. All smoke detectors in the house and accessory bedroom/bath 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. The alarm in the accessory

structure can be located anywhere in the main room (not in the bathroom).

4. Carbon monoxide alarms shall be provided in residential buildings and shall be located outside of all sleeping areas.
5. Address numbers at least 4" 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 (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.

Marin Municipal Water District (MMWD)

1. The project 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.
2. 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.
3. Comply with MMWD 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.

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

- The approval of the Conditional Use Permit is in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and
- Construction of the residence can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 15th day of September, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

Attest:

Chair, Laura Kehrlein

Jim Moore, Director of Planning and Building Services

Photo 1: Retaining wall tilting to the west (driveway above)



Photo 2: Compromised base of wall. Note exposed open-ended drainage pipe.

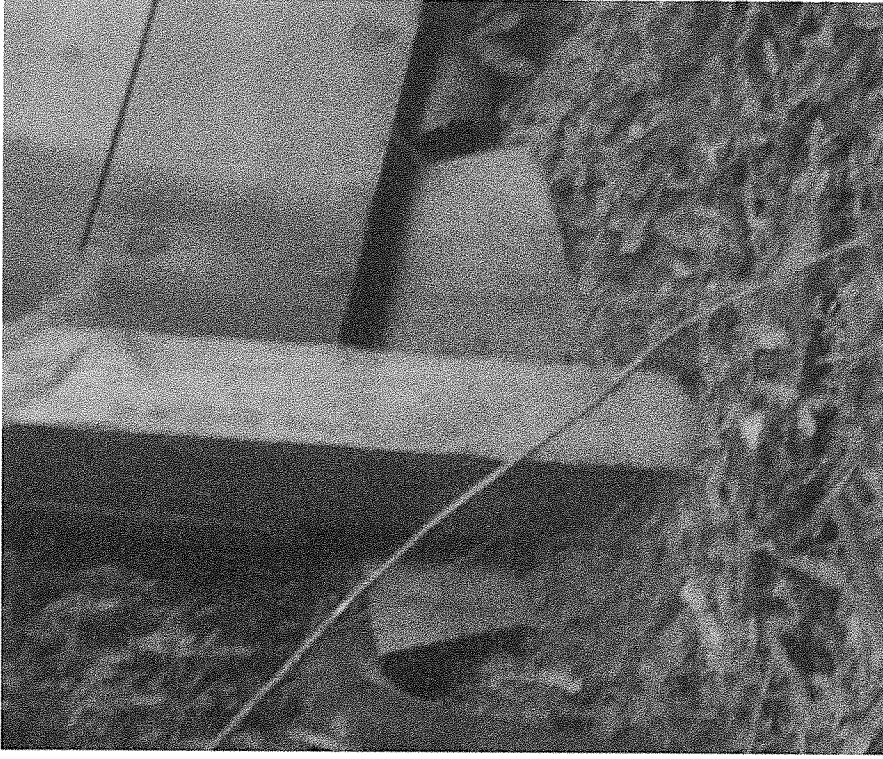


Photo 3: Compromised base of wall. Note exposed drainage pipe. **Photo 4:** Retaining wall with driveway above.

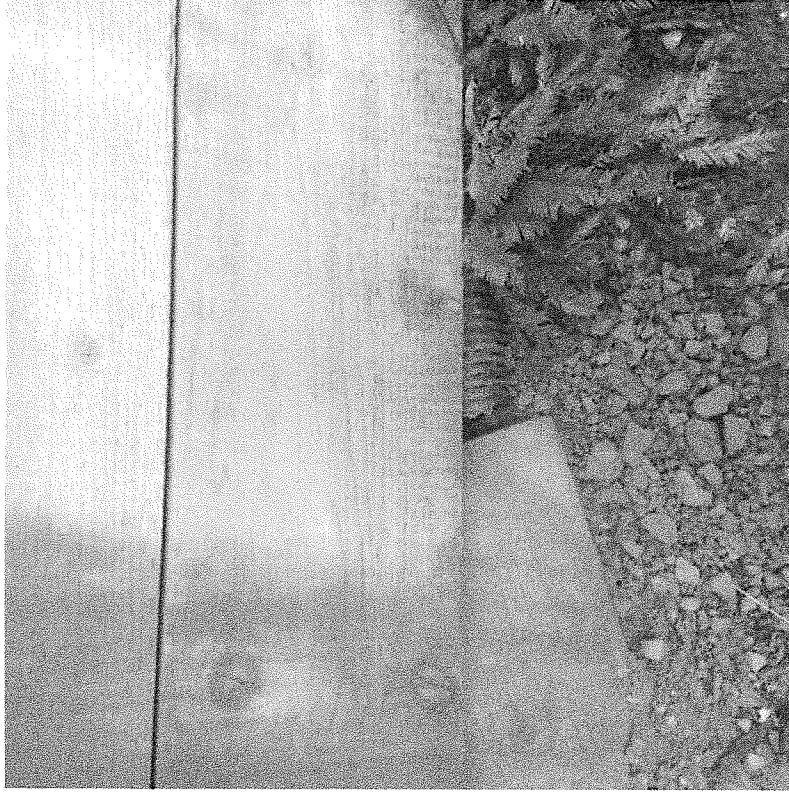




Photo 5: Deteriorated wall.

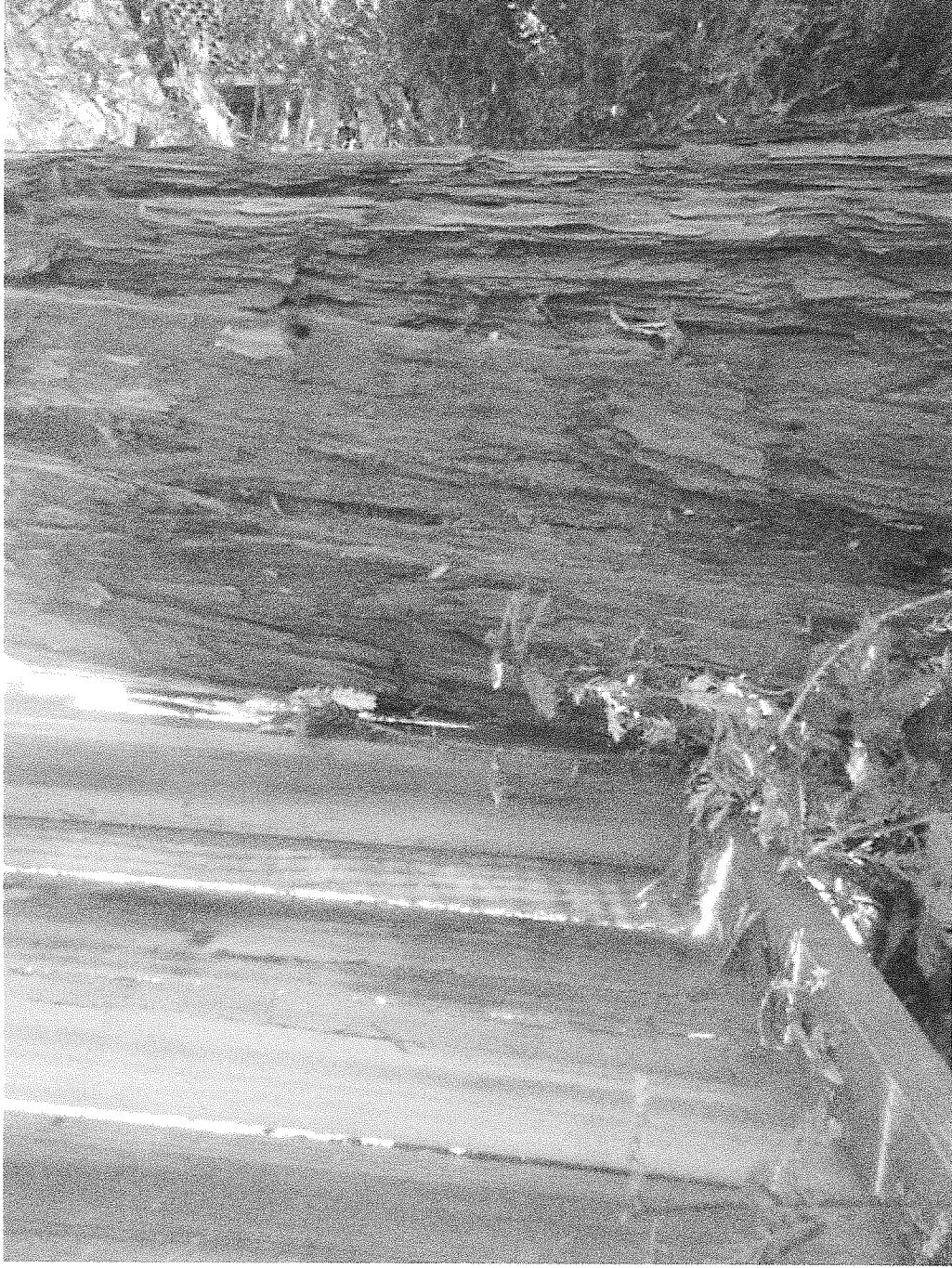


Photo 6: Wall leaning into trunk of redwood tree



Photo 7: Topped-off redwood tree



Photo 8: Driveway constructed against redwood tree



TOWN OF FAIRFAX

142 Bolinas Road, Fairfax, California 94930
(415) 453-1584 / Fax (415) 453-1618

January 25, 2016

Erick Mikiten
2415 Fifth Street
Berkeley, California 94710

Re: 145 Forrest Avenue, Fairfax, Marin County
Assessor Parcel Number 002-192-38
Preliminary Plan Review

Dear Mr. Mikiten,

The Department of Planning and Building Services has completed its preliminary review of the above referenced plans entitled, "Kuner Addition and Remodel, 145 Forrest Avenue, Fairfax, California 94930", Sheet(s) T-1 and A-1 through A-3, prepared by Mikiten Architecture, dated January 4, 2016, and received on January 5, 2016. The following represents our findings and request for additional information. Please note that the information requested below will be required in the formal application submitted for the project.

Project Details

- (1) *Property Boundaries*- Thank you for providing the front and side property lines for the property. In addition, please indicate the location of the rear property line on the project plans.
- (2) *Square Footage Estimates*-Our calculations indicate that the proposed project would result in the addition of 172 square feet, however the plans cite different estimates (e.g, 150 to 170 to 172 square feet). Please reevaluate the square footage estimates provided in the plan and provide consistent square footage(s) for the proposed project.
- (3) *Scope of Work and Project Cost*-The description of the work to be performed is unclear. The "Construction Permit Application" and the "Scope of Work" shown on the project plans (Sheet T-1) state that the work consists of extending the front entry to include a new porch, foyer and closet, extending the dining and living room, remodeling the master bathroom and adding a closet to the master bedroom by extending the residence to the east. However, the plans note that the northwestern retaining wall would be "rebuilt", the rear deck would be resurfaced and the roof would be "re-roofed". Please indicate all work that is proposed at this

time in the "Project Application Form" and the "Scope of Work" description on the plans. In addition, please confirm the total project cost for the currently proposed project.

In my January 19, 2016 telephone conversation with Victoria Ellison of Mikiten Architecture, she indicated that the extent of repair work on the northwestern retaining wall is being reviewed at this time. Due to the proximity of the retaining wall to several mature redwood trees, it appears that repair of the wall may have the potential to affect the health of the trees. Town Code § 8.36.040 states that, "It is unlawful to remove or alter any tree without a permit...". (Town Code § 8.36.020 defines "tree alteration" as, "(A)ctions taken by cutting or pruning any tree..., or by filling, surfacing, grading, compacting or changing the drainage pattern of the soil around any tree in a manner that threatens to diminish the vigor of the tree....") It is likely that repair of the retaining wall would "alter" the adjacent trees therefore a permit would be required. I have enclosed an "Application for Tree Removal or Alteration" form that should be completed and submitted with the application for the project. As part of the permit application for tree alteration, a report from a certified arborist should be included that documents the current health of the trees and describes any potential affects to the trees from the retaining wall repair. In addition, the report should describe mitigation measures that would be used during and following construction to ensure the continued health of the trees.

Planning Commission Review and Approval

The following items will require discretionary approval(s) and additional information to evaluate the project in accord with the Town Code:

(1) *Non-Conforming Lot Size-Use Permit*-The project site is located within the Residential Single-Family RS 6 Zone. It appears that the minimum lot width of the parcel is 99 feet and the slope is 38-percent. Because the parcel does not meet the Town Code building site requirements for the RS 6 Zone, (Town Code §17.080.050(C) requires a minimum lot width of 134 feet and a minimum buildable area of 30,000 square feet for a site with a slope of 38-percent) a Use Permit from the Planning Commission would be required to construct the project. I have enclosed a "Planning Application Form" which should be completed and submitted with the appropriate fee(s). (The fee for a Use Permit is \$813.00).

(2) *Fifty-Percent Remodel*-In our telephone conversation on January 19, 2016, Victoria Ellison and I discussed the extent of the roof repairs proposed with the project. Ms. Ellison indicated that the repairs would consist of replacing the surfacing of the roof only and would not involve repairs or replacement of the structural components of the roof. Because the roof repair does not appear to be structural, and the proposed additions would not involve structural changes to the existing roof but would add decorative elements to the existing roof line, it is the staff's position that the proposed project does not constitute a "50-percent Remodel" as defined in Town Code §17.008.020 and §17.016.040.


(3) *Hillside Area Residential Development Permit*-In order to determine whether a "Hillside Area Residential Development Permit" would be required, it is important to understand the amount of earth moving proposed with the proposed project. Town Code §17.072.020(A)(4) states that if the development of a lot with a slope that is equal to or exceeds thirty-one-

Erick Mikiten
Mikiten Architecture
January 25, 2016
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percent involves the movement of 50 cubic yards or more, a "Hill Area Residential Development Permit" is required. Please indicate the amount of earth moving proposed for the retaining wall and other project components. Based on this information, staff will determine whether a "Hill Area Residential Development Permit is required.

Once you have finalized the scope of the project, we will be able to provide you with input on staff's position regarding the project. If you have any questions, please do not hesitate to contact the Department of Planning and Building Services.

Sincerely,



Michelle Burt Levenson
Zoning Technician

cc: Mr. Vakil Kuner, property owner

Attachment(s)



TOWN OF FAIRFAX

142 Bolinas Road, Fairfax, California 94930
(415) 453-1584 / Fax (415) 453-1618

August 3, 2016

Erick Mikiten
2415 Fifth Street
Berkeley, California 94710

Re: 145 Forrest Avenue, Fairfax, Marin County
Assessor Parcel Number 002-192-38
Planning Application Review

Dear Mr. Mikiten,

On June 23, 2016, the Department of Planning and Building Services received a Planning Application for the renovation and expansion of the single-family residence located at 145 Forrest Avenue, in the Town Fairfax. While staff has determined that the Planning Application is "complete", it has come to our attention that work on the northwestern retaining wall was performed without the necessary Town approvals, and that the resultant retaining wall poses potential safety issues and endangers the health of mature redwood trees. The retaining wall must be corrected and brought into compliance with the Town Code to avoid the initiation of formal abatement action.

Staff has identified the following two options for correcting and obtaining approval for the retaining wall:

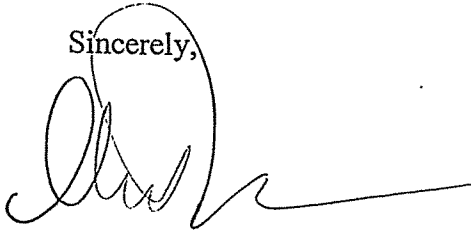
- (1) Revise the project application and plans to include improvements to the retaining wall at this time. Depending on the scope of these activities, additional discretionary approvals from the Planning Commission may be required. For example, bringing the wall up to accepted engineering standards and eliminating its connection to the redwood tree(s) may increase its height beyond 6 feet, which would require the approval of a retaining wall height variance. If additional discretionary approvals are required, the request for these approvals could be combined with the renovation work. An arborist and engineer report(s) would be required to evaluate the retaining wall; or
- (2) Bring the current application before the Planning Commission without the retaining wall work. The staff would recommend the project be approved by the Planning Commission subject to future discretionary approvals (if applicable) for the retaining wall work and issuance of a building permit for the engineered wall, prior to the issuance of a building

Erick Mikiten
Mikiten Architecture
August 3, 2016
Page 2

permit for the remodel/addition project. This option may require additional discretionary approvals before the Planning Commission that would occur at a later date, prior to the issuance of a building permit.

Please let me know how you would like to proceed. If you have any questions, please do not hesitate to contact the Department of Planning and Building Services.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michelle Burt Levenson', with a long horizontal flourish extending to the right.

Michelle Burt Levenson
Zoning Technician

cc: Mr. Vakil Kuner, property owner

Michelle Levenson

From: Michelle Levenson
Sent: Thursday, August 25, 2016 10:05 AM
To: 'Erick Mikiten AIA'
Subject: RE: 145 Forrest

Hi Erick-Thanks for chatting with me this morning.

As we discussed, I am waiting to receive comments from the Ross Valley Fire Department regarding the project. I rerouted the plans to them and have let them know that this project needs review. Once I receive their comments, I can schedule the meeting before the Planning Commission. There is a tight time frame for the September 15, 2016 meeting as I would need to receive comments from the Fire Department by mid-next week to include the project on the Meeting Agenda which gets mailed to adjacent property owners on September 2, 2016.

In addition, the Town has not received any information or application for the retaining wall work. As I indicated in my letter to you dated August 3, 2016, the retaining wall work may require additional Planning Commission approval. While Planning Staff would prefer to process the retaining wall and renovation work as one project, I understand that the preference of the home owner is to process the items separately. Please be aware and as indicated in my August 3rd letter, the building permit for the renovation work will be contingent upon the issuance of a building permit for the retaining wall.

Please let me know if you have additional questions.

Michelle Levenson
Town of Fairfax

From: Erick Mikiten AIA [mailto:erick@mikitenarch.com]
Sent: Wednesday, August 24, 2016 9:36 AM
To: Michelle Levenson
Cc: Victoria Ellison; Linda Neal
Subject: Re: 145 Forrest

Hi Michelle,

Checking back on these questions. I left another VM this morning.

Thanks.
Erick

Erick Mikiten, AIA
Architect, LEED-AP



2415 Fifth Street, Berkeley, CA 94710
510-540-7111 Fax: 540-7117
www.MikitenArch.com

2. That the Fire Department is okay with the notes we have about their requirements.

3. Exactly what the steps and chronology are at this point:

3A. The owner is nervous about having the Grading Moratorium affect the project.

3B. We'd like to know the earliest possible date we could submit for Building Permit.

Thanks.

Erick

Erick Mikiten, AIA
Architect, LEED-AP
<MikitenLogo.gif>

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On Aug 10, 2016, at 12:12 PM, Michelle Levenson
<mlevenson@townoffairfax.org> wrote:

Hi Erick-It has just come to my attention that I have been having phone issues such that my voicemail indicator was not alerting me to voicemail messages. I just listened to your message from last week. I am here today until 12:45 and will be here tomorrow at 9:30. Please let me know a good time to connect with you about 145 Forrest.

Michelle

Michelle Levenson

From: Michelle Levenson
Sent: Tuesday, September 06, 2016 11:02 AM
To: 'Erick Mikiten AIA'; Victoria Ellison
Cc: Linda Neal
Subject: RE: 145 Forrest - Retaining Wall
Attachments: 145 Forrest-apprvw8.3.16.pdf

Hi Erick-The specific details (location, length, height, engineering report, materials, etc.) for the retaining wall, as well as the arborist report and recommendations/mitigation measures to ensure the continued health of the redwood trees, are necessary to "tie" the project in with the residential improvements and include the retaining wall work with the current planning application.

As detailed in the attached letter dated August 3, 2016, depending on the details of the retaining wall work, discretionary approvals specific to the wall could be required. Based on the information we have at this time as well as a site inspection, staff believes that additional discretionary approvals for the wall are likely. Because of the likelihood of additional discretionary approvals, staff advised you and the property owner in the 8/3/16, letter to provide the required information listed above, revise the planning application accordingly and apply for approval for the retaining wall work with the current request for approval of the residential improvements.

As I understand from our conversations, the owner has decided not to pursue this option and wishes to pursue the improvements separately. As detailed in my attached letter, any discretionary approvals issued for the residential improvements would be conditioned such that the building permit for the residential improvements would be issued once all discretionary approvals and a building permit have been issued for the retaining wall.

As we discussed, the staff report for the currently submitted project will be going out this Friday, 9/9/16. If the owner decides to change the project in any way from the most recently submitted plans (dated 6/23/16) you will need to revise the relevant sections of the planning application form and provide revised project plans. I will need information (revised form and plans) regarding project revisions by 9/7/16 at 10:00am if you wish to be on the 9/15/16 Planning Commission Agenda.

Lastly, we discussed several scenarios related to revising the project after receiving Planning Commission approval. As you know while sometimes unavoidable, changing the project after receiving project approval is not optimal. Depending on the changes proposed, additional review and approval before the Planning Commission could be required. The fee for changes to the Conditional Use Permit is \$813 and is subject to the same time frame that governs the initial application submittal (e.g., the Permit Streamlining Act).

Unfortunately, I do not have the email address for the property owner; please forward this email to him at your earliest convenience.

Please contact me should you have further questions.

Michelle Levenson
Town of Fairfax

From: Erick Mikiten AIA [<mailto:erick@mikitenarch.com>]
Sent: Tuesday, September 06, 2016 9:59 AM
To: Michelle Levenson

Cc: Victoria Ellison; Linda Neal
Subject: 145 Forrest - Retaining Wall

Hi Michelle - another idea about the retaining wall:

Can we add a note to the site plan and include the retaining wall in this Planning Commission review, even though we're still in the process of figuring out with arborists exactly what the solution will be? Something like this, which uses some of the language from your letter:

"Existing retaining wall structural deficiencies to be corrected and brought into compliance with the Town Code through structural repairs or replacement, as determined by an arborist and/or engineer."

I think this satisfies the request of your letter, and avoids a separate Planning Commission hearing for the retaining wall.

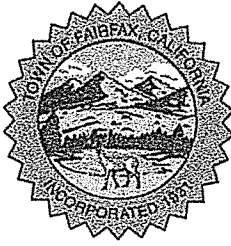
Thanks.
Erick

Erick Mikiten, AIA
Architect, LEED-AP



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TOWN OF FAIRFAX

142 Bolinas Road, Fairfax, California 94930
(415) 453-1584 / Fax (415) 453-1618

August 3, 2016

Erick Mikiten
2415 Fifth Street
Berkeley, California 94710

Re: 145 Forrest Avenue, Fairfax, Marin County
Assessor Parcel Number 002-192-38
Planning Application Review

Dear Mr. Mikiten,

On June 23, 2016, the Department of Planning and Building Services received a Planning Application for the renovation and expansion of the single-family residence located at 145 Forrest Avenue, in the Town Fairfax. While staff has determined that the Planning Application is "complete", it has come to our attention that work on the northwestern retaining wall was performed without the necessary Town approvals, and that the resultant retaining wall poses potential safety issues and endangers the health of mature redwood trees. The retaining wall must be corrected and brought into compliance with the Town Code to avoid the initiation of formal abatement action.

Staff has identified the following two options for correcting and obtaining approval for the retaining wall:

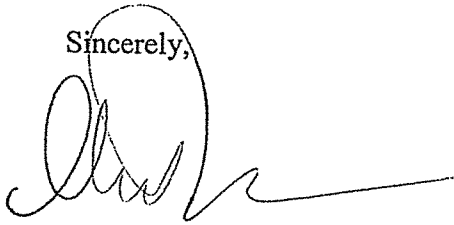
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Erick Mikiten
Mikiten Architecture
August 3, 2016
Page 2

permit for the remodel/addition project. This option may require additional discretionary approvals before the Planning Commission that would occur at a later date, prior to the issuance of a building permit.

Please let me know how you would like to proceed. If you have any questions, please do not hesitate to contact the Department of Planning and Building Services.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michelle Burt Levenson', with a long horizontal flourish extending to the right.

Michelle Burt Levenson
Zoning Technician

cc: Mr. Vakil Kuner, property owner

STAMP:

CONSULTANT:

PROJECT NAME:
KUNER
ADDITION &
REMODEL
145 FORREST AVENUE
FAIRFAX CA 94530

CLIENT:
VAKIL KUNER
145 FORREST AVENUE
FAIRFAX, CA 94530

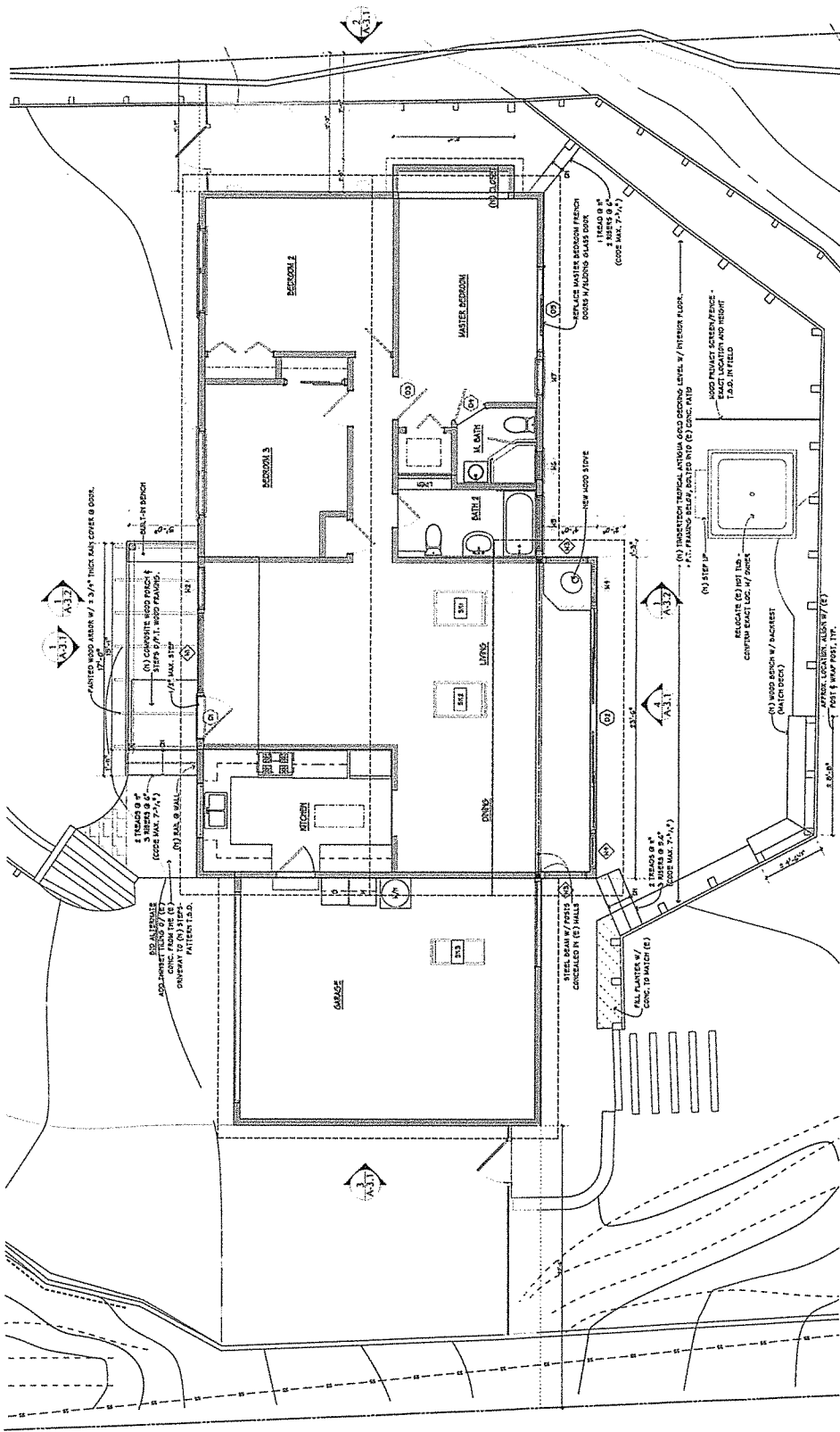
SHEET CONTENTS:
PROPOSED GROUND FLOOR PLAN

DATES:
1/4/16 - PRELIMINARY PLANNING
6/23/16 - PLANNING APPLICATION
7/6/16 - PLANNING REVISION

ARCHITECT'S JOB #:
15-0017 - VKUN

SHEET #:

A-2.1



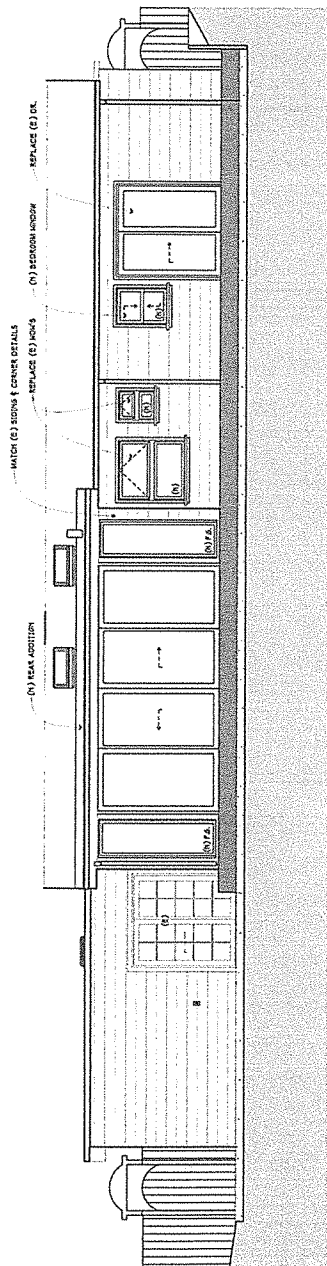
1 Proposed Floor Plan
SCALE: 1/8" = 1'-0"

WINDOW SCHEDULE				GLAZING		NOTE/REMARKS
ID	QTY. (VERIFY)	H X W SIZE	OPERATION TYPE	MANUFACTURER	FRAME MATERIAL	
M1	1	5'-0" X 6'-0"	FIXED	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M2	1	3'-0" X 4'-0"	DOUBLE HUNG	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M3	1	3'-0" X 4'-0"	FIXED	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M4	1	2'-0" X 4'-0"	FIXED	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M5	1	1'-0" X 4'-0"	FIXED	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M6	1	1'-0" X 4'-0"	FIXED	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON
M7	1	2'-0" X 4'-0"	DOUBLE HUNG	SERENA PACIFIC	ALUM. CLAD & DOUGLAS FIR	LOW E ST7 & ARGON

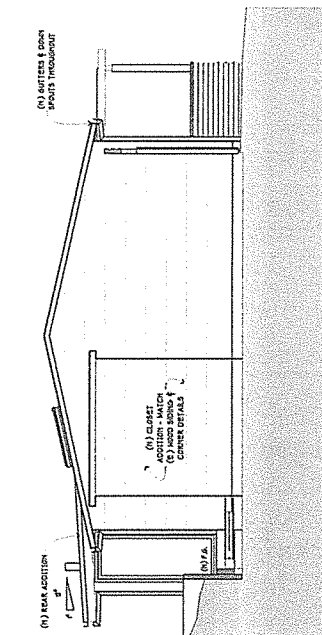
SKYLIGHT SCHEDULE				GLAZING		NOTE/REMARKS
ID	NOMINAL DIMENSIONS	MANUFACTURER	OPERATION TYPE	TEMPERING	TYPE	
S1	5'-0" X 3'-0"	VELUX	MANUAL OPEN	LAQUINATED LOW-E	MANUAL OPEN	RECESSED IN FLOOR TO MATCH PAINTS ELIGIBLE GLASS DOOR
S2	5'-0" X 3'-0"	VELUX	MANUAL OPEN	LAQUINATED LOW-E	MANUAL OPEN	RECESSED IN FLOOR TO MATCH PAINTS ELIGIBLE GLASS DOOR
S3	5'-0" X 3'-0"	VELUX	MANUAL OPEN	LAQUINATED LOW-E	MANUAL OPEN	RECESSED IN FLOOR TO MATCH PAINTS ELIGIBLE GLASS DOOR

DOOR SCHEDULE				GLAZING		NOTE/REMARKS
ID	QTY.	FINISH	GLAZING	MANUFACTURER	FRAME MATERIAL	
D1	1	WHITE CLAD (CONFORM)	3/4" INSULATED GLAZING	MANULIST W/ GRABBAR	ALUM. CLAD & DOUGLAS FIR	7403 CONTEMPORARY THERMAL CYCLO STICKING PROFILE
D2	1	WHITE CLAD (CONFORM)	LOW E ST7 & ARGON	VERONA WINDOWS	WHITE CLAD	RECESSED (FLUSH) - MATCHES FLOOR, ULTIMATEVIEW SCREEN
D3	1	WHITE CLAD (CONFORM)	...	REUSE (2) IN MASTER	...	PLANT SLAB, HOLLOW CORE TO MATCH (2)
D4	1	WHITE CLAD (CONFORM)	310 ALUMINATE, MATCHES FLOOR, ULTIMATEVIEW SCREEN

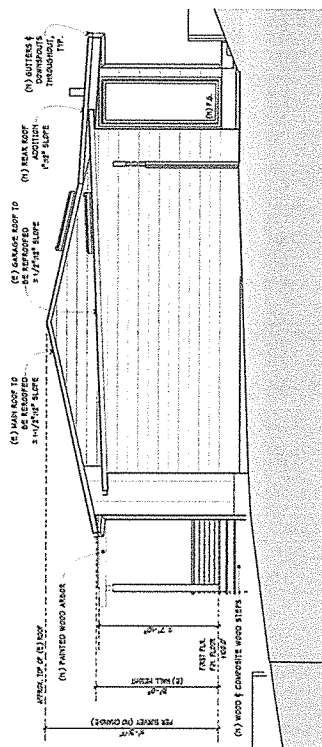
Scale:
24x36 Print: Scale as shown
11x17 Print: 20% of Scale shown



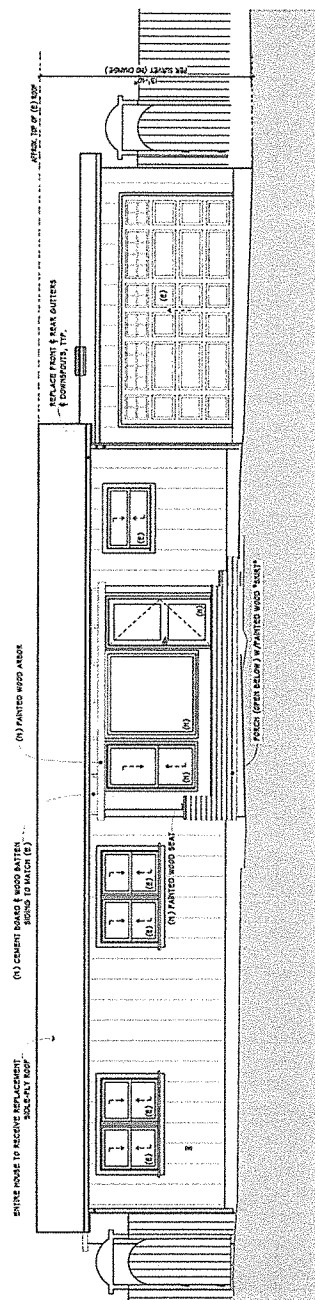
① Rear Elevation Looking North



Side Elevation Looking West



Side Elevation Looking East



Front Elevation Looking South

Scale:
24x36 Print: Scale as shown
11x17 Print: 50% of scale shown

ARCHITECT:



Mikiten Architecture
2415 68th Street • Berkeley, CA • 94710
Phone: 510-540-7117 • Fax: 510-540-7117
www.mikitenarch.com

STAMP:

CONSULTANT:

PROJECT NAME:
**KUNER
ADDITION &
REMODEL**
145 FORREST AVENUE
FAIRFAX CA 94530

CLIENT:
VAKIL KUNER
145 FORREST AVENUE
FAIRFAX, CA 94530

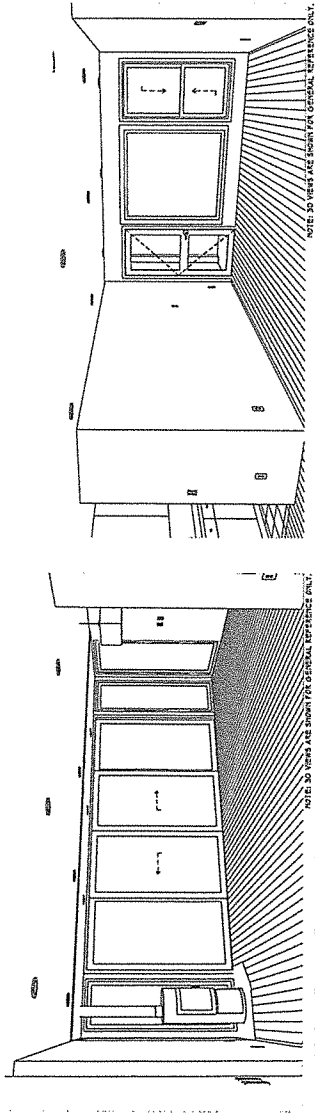
SHEET CONTENTS:
PROPOSED SECTIONS

DATES:
1/4/16 - PRELIMINARY PLANNING
REVIEW
6/23/16 - PLANNING APPLICATION
7/6/16 - PLANNING REVISION

ARCHITECT'S JOB #:
15-0017 - VKUN

SHEET #:

A-3.2

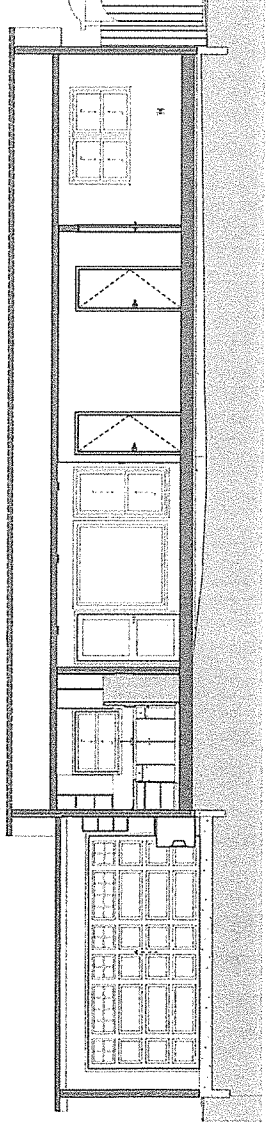


4 Living Room Perspective
SCALE: 1/8" = 1'-0"

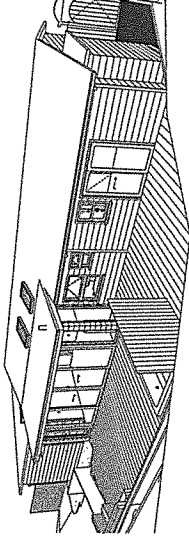
NOTE: 3D VIEWS ARE SHOWN FOR GENERAL REFERENCE ONLY.

5 Entry Perspective
SCALE: 1/8" = 1'-0"

NOTE: 3D VIEWS ARE SHOWN FOR GENERAL REFERENCE ONLY.

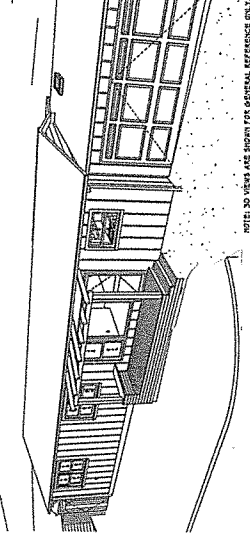


2 Longitudinal Section Looking South
SCALE: 1/4" = 1'-0"



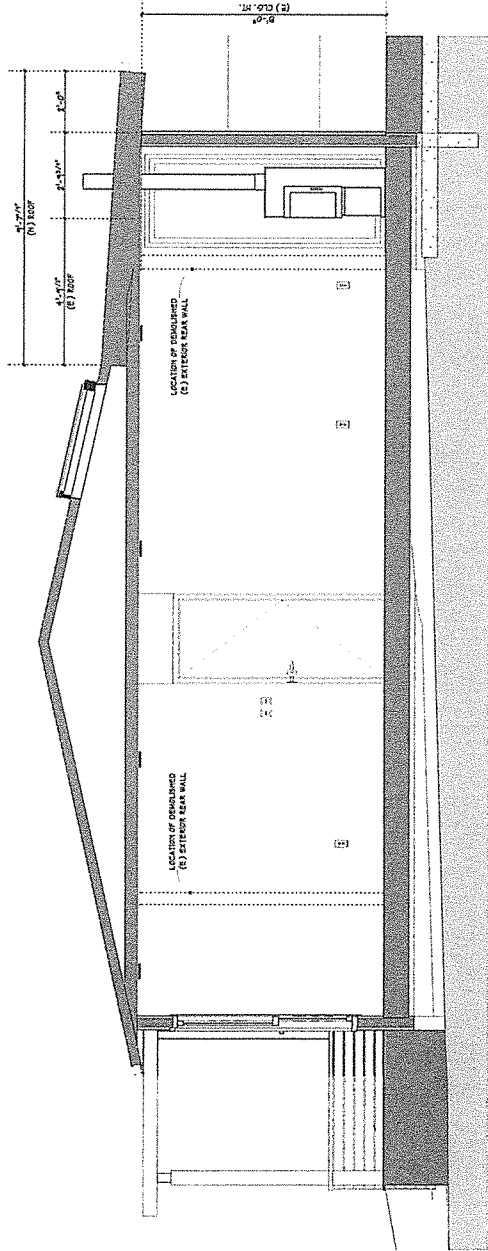
3 Rear Perspective
SCALE: 1/8" = 1'-0"

NOTE: 3D VIEWS ARE SHOWN FOR GENERAL REFERENCE ONLY.



6 Front Perspective
SCALE: 1/8" = 1'-0"

NOTE: 3D VIEWS ARE SHOWN FOR GENERAL REFERENCE ONLY.



1 Cross Section Looking East
SCALE: 1/2" = 1'-0"

Scale:
24x36 Print: Scale as shown
11x17 Print: 50% of Scale Shown