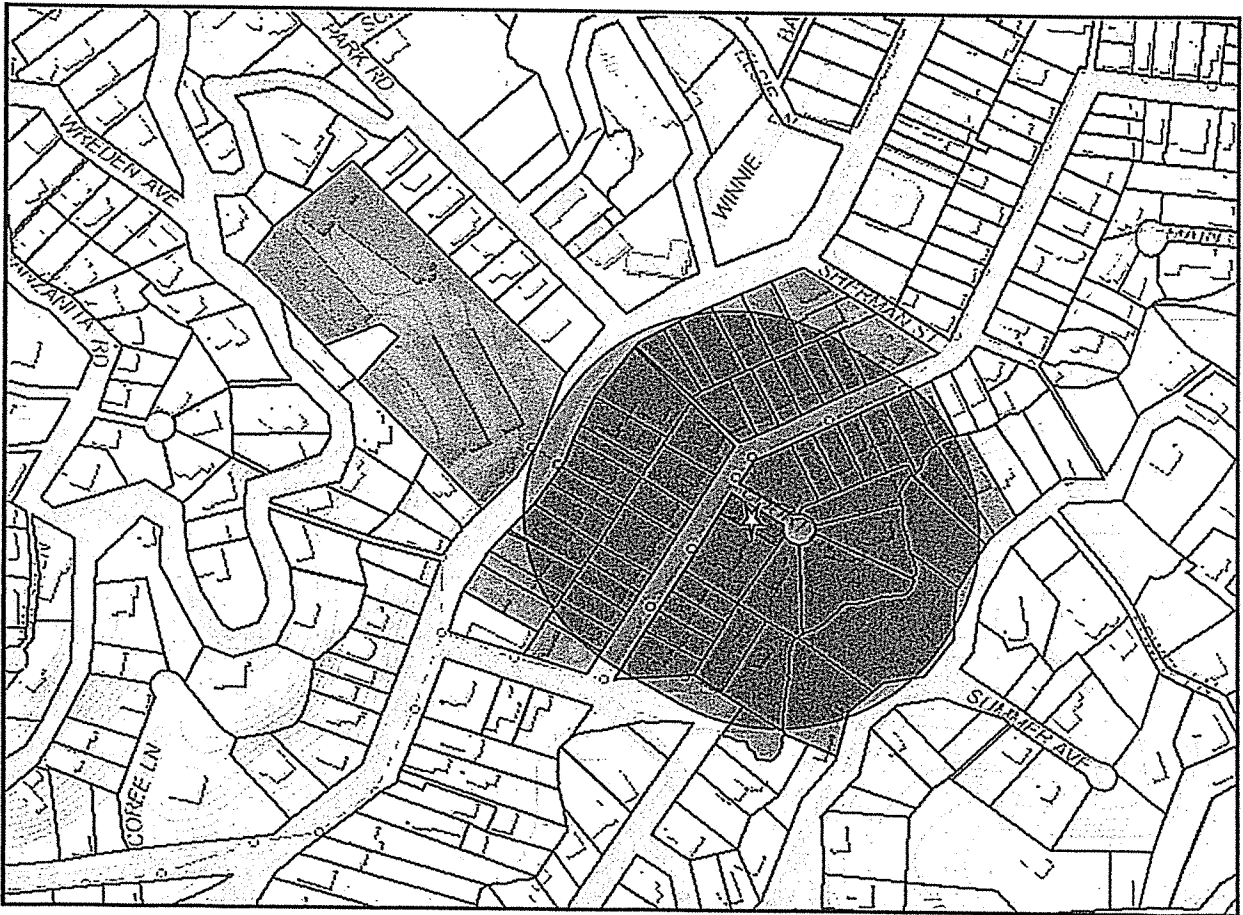


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: December 18, 2014
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 127 Dominga Ave.; Assessor's Parcel No. 002-025-06
ZONING: Residential RD 5.5-7 Zone
PROJECT: Remodel/addition to a single-family residence
ACTION: Use Permit and Setback Variances; Application # 14-46
APPLICANT: David Grabham, Contractor/Applicant
OWNER: Krishna Tyner
CEQA STATUS: Categorically exempt §§ 15301(a), (3)(1) and 15305(a)



127 DOMINGA AVENUE

BACKGROUND

The 3,700 square foot, 37.5 foot wide site is level and was created when the Pacheco Tract Subdivision, Map 2, was recorded on May 2, 1910. The 1,327 square foot, two bedroom, 1 bath residence was constructed in 1916. A 360 square foot improved basement area is located on the first floor while the remaining 967 square feet of living space is on the second floor. The Planning Commission approved a Use Permit and Setback Variances to allow the house to be lifted to bring the existing basement area living space into compliance with the building code ceiling heights and to add a full bathroom on March 20, 2014.

There is also a detached garage structure on the property that has a bedroom and bathroom above it. This structure appears to have been built some time prior to 1956 and is presumed to have been built with permits.

DISCUSSION

The applicants are now applying to relocate the laundry area contained in the first floor living area into the previously unimproved basement area and convert 299 square feet of the remaining 598 square foot unfinished basement into a finished conditioned space that has 6 foot 8 inch ceiling heights and windows. The other half of the unimproved area will remain a basement. Although considered substandard for living space by Building Code standards, the improved 6 foot 8 inch ceiling height and finished conditioned nature of the new area will lend itself to use as living space, being only 4 inches short of the 7 foot ceiling height now required by code for areas used as living space.

The project complies with the regulations of the Residential RD 5.5.-7 Zone District where the property 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 | 15 ft | 5 ft | 25 ft | 0 ft and 1.25 ft | 1.25 ft | .40 | .68 | 19, 2 stories |
| Proposed | same | same | same | same | same | .43 | .68 | 22 ft, 2 stories |

The project requires the approval of the following discretionary permits:

Use Permit:

Town Code § 17.084.050(A) requires that a Use Permit be obtained prior to any improvements on a parcel not meeting the minimum 5,500 square foot minimum parcel size and 60 foot width requirements for properties zoned RD 5.5-7. The project site is only 3,700 square feet in size and 37.5 feet wide so the project requires a Use Permit.

The previous use permit request was supported by staff because the project did not increase the existing conditioned space already being used as living space. The 1,327 square foot residence which, with a 182 square foot bedroom and bath improved above the garage, already has a Floor Area Ratio of 4.0. Bringing the basement area that was already being used as living space with substandard ceiling heights into compliance with the Building Code benefited the Town by improving the existing housing stock and it project benefited the owner by providing safe stairway access to the lower living level.

Improving more of the basement area as conditioned space with large windows on the northeast and northwest sides of the building will make it attractive for use as living space and make it very difficult for the Town to ensure that the area remain storage. The conditioned space, if used for living space purposes, results in a Floor Area Ratio of .43 which exceeds the .40 Floor Area Ratio of living space to property area permitted by Town Code § 17.136.030. The applicant's representative has advised staff that the area will have ceiling heights that do not meet the building code minimum ceiling height requirement of 7 feet and therefore, does not have to be deemed living space. However, the low ceiling height is not enough of a deterrent to keep the area from being converted for use as living space as is evidenced by the previous use of other portions of the basement as living space with only 6 foot 8 inch ceilings.

The approval of the conversion of the additional basement area to conditioned space with sheet rock, insulation, electrical and plumbing improvements and windows requires the approval of a Use Permit and a Floor Area Ratio Variance that staff is unable to make findings to support. Use of the area only for storage once the space is conditioned will be impossible to enforce. Staff recommends that the laundry room be approved for relocation from the lower floor bathroom to the basement that shall remain unimproved with the windows proposed for the northeast and northwest sides replaced with siding, the wall shown on the plans dividing the basement being removed and the electrical in the basement being kept to a minimum.

Other Agency/Department Conditions

The project does not change the original requirements of the other agency as indicated below:

Ross Valley Fire Department

- The structure must be provided with a fire suppression system that is approved and inspection by the Ross Valley Fire Department.
- Vegetative management on the site must comply with Ross Valley Fire Department Fire Protection Standard 220.
- Address numbers that are at least 4 inches in height must be in place adjacent to the front door and if not clearly visible from the street additional numbers are

required where they are clearly visible from the street. The numerals must be illuminated so they are visible at night.

- All smoke detectors shall be provided with AC power and be interconnected for simultaneous alarm and be located as required by the Building Code.
- Carbon monoxide detectors must be installed in compliance with the Building Code.

Marin Municipal Water District

Any landscaping must comply with District Code Title 13, Water Conservation.

Ross Valley Sanitary District

If not already installed, the side sewer must be equipped with a backwater prevention device and must be inspected and approved by a District inspector.

Building Department

The Building Official provided a copy of the new FEMA flood map for this area that goes into effect March 17, 2014, pointing out that although this property is not in a flood zone or the flood way, the floor of the basement is below flood level and there could be water seepage problems in the basement in the future.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to deny application 14-46 by adopting attached Resolution No. 14-17 and direct the applicant to restore the 598 square feet of existing basement area to unconditioned basement area with no windows, no partition walls except the one between the approved living space and unfinished basement and minimal electrical improvements.
4. Prior to the project final inspection and issuance of the occupancy permits, the owner shall sign, notarize and record a deed restriction clarifying the permitted use of the 598 unconditioned basement for non-residential storage purposes only.

ATTACHMENTS

- Exhibit A – Resolution No. 14-17
- Exhibit B - previously approved floor plan

RESOLUTION 14-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX DENYING APPLICATION NO. 14-46 FOR CONVERSION OF A PORTION OF THE BASEMENT OF A SINGLE FAMILY RESIDENCE TO CONDITIONED SPACE

WHEREAS, on November 13, 2014, David Grabham, on behalf of Krishna Tyner, submitted an application, which was deemed complete on December 3, 2014, for a Use Permit to the Town of Fairfax To convert 299 square feet of unimproved basement area to conditioned space; and

WHEREAS, on December 18th, 2014 the Town of Fairfax Planning Commission held a duly-noticed public hearing to consider approval of the applicant's requested use permit; and

WHEREAS, at the December 18th, 2014, public hearing, the Planning Commission considered a staff report and its exhibits, and heard from the applicant and interested members of the public, and staff; and

WHEREAS, as set forth in the staff report prepared for the Planning Commission, the proposed improvement will increase the floor area, as defined in the Zoning Ordinance, of the residential structure beyond the .40 permitted by the Town Code and the Commission finds as follows:

1. The proposed remodel will increase the existing .40 FAR to .43 which is prohibited by the Town Code. Therefore, granting the use permit will constitute a grant of special privilege and shall contravene the doctrines of equity and equal treatment.
2. The conversion of 299 square feet of the basement to an additional conditioned room increases the potential for the home to accommodate more persons, potentially impacting the neighborhood parking in an area where the on street parking is at a premium. 127 Dominga has parking for only 1 vehicle but already has a two bedroom house with a detached bedroom and bath over the garage with the potential for 3 adults with vehicles to live on the property. Therefore, approval of the use permit could cause 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. The owner has not present any compelling evidence that improvement of the basement as conditioned space, in violation of the FAR limit, is necessary for her to have a substantial use of her property. She already has a substantial use with the single family home and detached bedroom and bath.

EXHIBIT #

A

4. The approval of the use permit is contrary to those objectives, goals and standards set forth in the Town Zoning Ordinance and the findings required by Town Code §17.032.040 for a conditional use permit and FAR Variance could not be made.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Planning Commission of the Town of Fairfax that said Commission does deny Application No. 14-46 and prohibits the conversion of 299 square feet of the single-family residence basement into conditioned space at 127 Dominga Avenue.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of December, 2014, by the following vote:

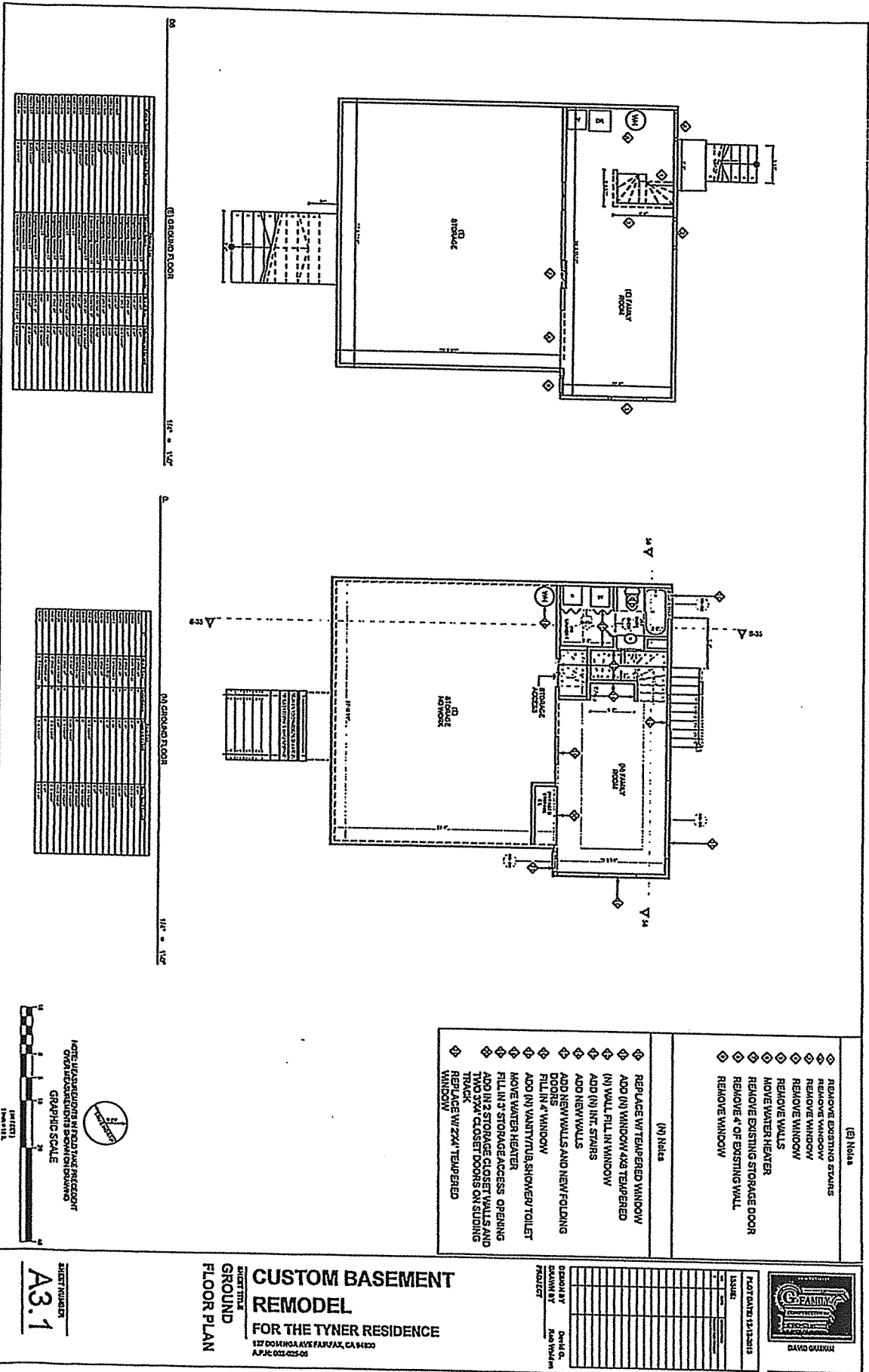
AYES:

NOES:

Chair, Brannon Ketcham

Attest:

Jim Moore, Director of Planning and Building Services



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NOTE: SEE REQUIREMENTS IN FIELD PAGE PRECEDING FOR OVERLAP REQUIREMENTS SECTION ON DRAWING GRAPHIC SCALE

- (E) Notes
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 - ◆ REMOVE 4' OF EXISTING WALL
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- (N) HIDE
- ◆ REPLACE W/1 TEMPERED WINDOW
 - ◆ ADD (N) WINDOW AND TEMPERED
 - ◆ (N) WALL FILL IN WINDOW
 - ◆ ADD (N) INT. STAIRS
 - ◆ ADD NEW WALLS
 - ◆ ADD NEW WALLS AND NEW FOLDING
 - ◆ FILL IN 4' WINDOW
 - ◆ ADD (N) VANITY/TUB, SHOWER/TOILET
 - ◆ MOVE WATER HEATER
 - ◆ FILL IN 2' STORAGE CLOSET WALLS AND
 - ◆ ADD IN 2 STORAGE CLOSET WALLS AND
 - ◆ TWO 3'X4' CLOSET DOORS ON SLIDING
 - ◆ TRACK
 - ◆ REPLACE W/2'X4' TEMPERED
 - ◆ WINDOW

CUSTOM BASEMENT REMODEL FOR THE TYNER RESIDENCE
 127 DOMINGO AVE FAYAX, CA 94120
 A.P.C. 022-025-01

DESIGN BY: DANIEL G. ...
 DRAWN BY: ...
 PRODUCT: ...

FOOTING: 1513-2015

DAVID GUERIN

DATE: 11/18/11

PROJECT: A3.1

EXHIBIT # **B**

