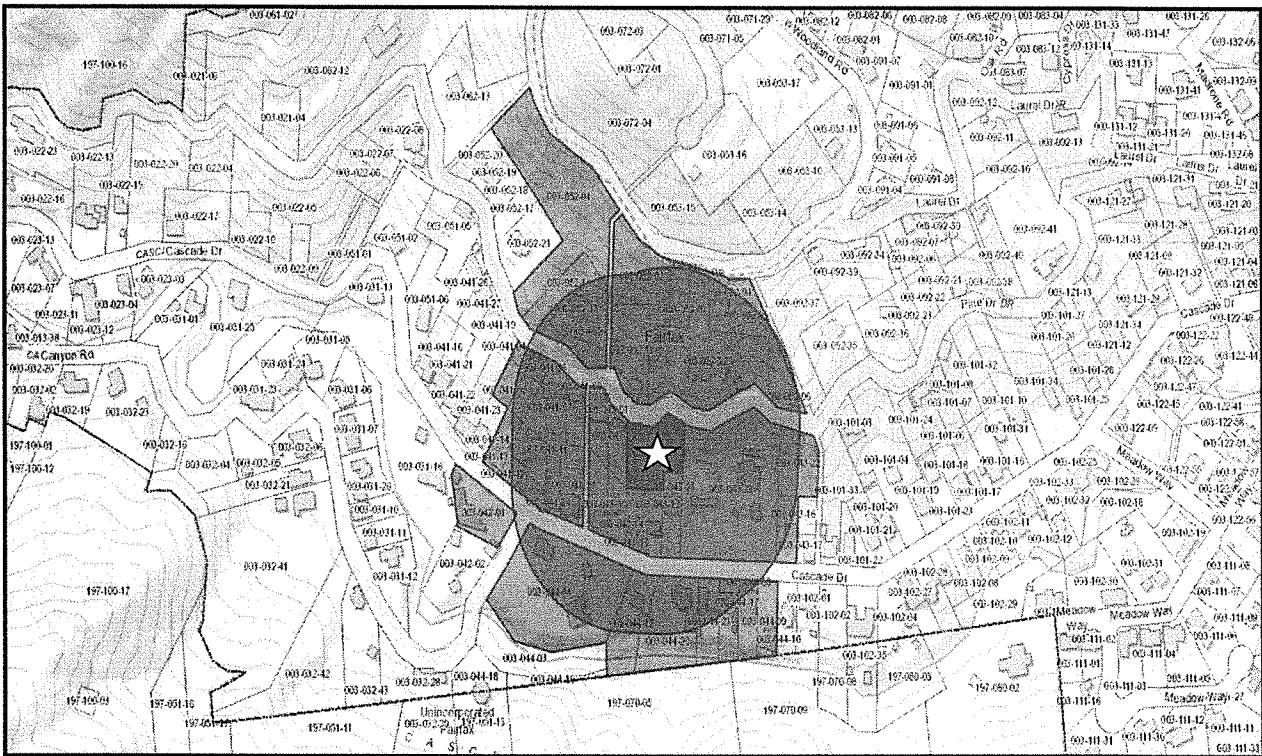


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: April 11, 2019
FROM: Ben Berto, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 147 Pine Drive; Assessor's Parcel No. 003-043-19
PROJECT: Living room/deck expansion
ACTION: Use Permit; Application # 19-07
APPLICANT: Rheanna LaRoch, Designer
OWNERS: Christopher and Julie Gatty
CEQA STATUS: Categorically exempt, § 15301(e)(1)



147 PINE DRIVE

BACKGROUND

The 18,472 square-foot site slopes down from Pine Drive at an average rate of 44%. The site is developed with a 2,374 square-foot, 2 bedroom, 2 ½ bathroom single-family residence and a 480 square-foot carport that were built in 1980.

DISCUSSION

The project encompasses the enclosure of the existing 345 square-foot, second floor roof deck to construct a 345 square-foot family room addition, converting the existing second floor family room into an office and the construction of a 355 square-foot roof deck off the third floor dining/living room. The addition will increase the living space square-footage to 2,719 square-feet.

The project complies with the Residential Single-family RS-6 Zone District regulations 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.	12 ft.	35 ft.	5 ft. and 5 ft.	20 ft.	.40	.35	35 ft., 3 stories
Existing	36 ft.	49 ft.	85 ft.	38 ft. and 75 ft.	113 ft.	.13	.07	37 feet, 3 stories
Proposed	no change	no change	no change	no change	no change	.15	.09	no change

Please note that the height limit for this property was 45 feet and there was no limit on the number of stories in 1980. The current height limit contained in the table above did not go into effect until September 17, 1981.

Required Discretionary Permits

Town Code § 17.080.050 requires that projects proposed on properties that are substandard in size and width based on their slope require the approval of a Conditional Use Permit. The project site has a 44% slope. In order to meet the minimum size and width requirements of the code a site with a 44% slope would have to be 36,000 square-feet in size and 154 feet wide to comply. The project site is only 18,472 square-feet in size and therefore the project requires the approval of a Use Permit by the Planning Commission.

The purpose of the conditional use permit is, “to allow the proper integration into the 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” [Town Code §17.032.010(A)]. The code goes on to indicate that, “In consideration of an

application for a conditional use, the Planning Commission shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and welfare” [Town Code §17.032.010(B)].

Residential structures in the neighborhood range from 1,060 square-feet in size to 2,588 square feet (see table below).

147 Pine Drive – COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES						
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	Floor Area Ratio
003-043-02	153 Pine	7500	2588	4	3.5	.35
003-043-22	103 Pine	13500	1894	2	2	.14
003-052-11	142 Pine	16500	2021	3	2.5	.12
003-052-21	182 Pine	16350	2260	2	2	.14
003-092-35	84 Pine	20550	1849	3	2	.09
003-092-36	82 Pine	15800	1690	3	2.5	.11
003-092-38	54 Pine	10266	1910	4	3	.19
003-121-20	75 Laurel	8560	2051	3	3	.24
003-121-31	89 Laurel	14050	2432	3	2	.18
003-043-19	147 Pine	18472	2719	2	2.5	.15

The proposed 345 square-foot addition would result in 147 Pine being one of the larger residences in the neighborhood but it would not be the largest. 153 Pine Drive is a 2,588 square-foot, 4 bedroom, 3 ½ bathroom structure that has the largest .35 floor area ratio due to its smaller, 7,500 square-foot parcel size. The addition would result in 147 Pine Drive having a FAR of .15 which would be similar to the .14 FAR's maintained by the structures at 103 and 182 Pine Drive which both have smaller parcel sizes.

The proposed addition would be within the exiting footprint of the residence, would result in no disturbance to the remainder of the property and it would also exceed the setback requirements maintaining setbacks from the nearest neighboring residences in excess of 40 feet.

The siding and windows would match the existing structure in materials and color. Three lights are proposed on the south site of the new roof deck off the dining/living room. Staff recommends that the lighting be dark-sky fixtures to minimize light escape beyond the deck and be subject to the approval of the Planning Director prior to issuance of the building permit. We have included a condition pertaining to this issue in the attached resolution.

The project does not constitute a 50% remodel so it does not require the approval of a design review permit nor is it located within a ridgeline scenic corridor where it would require the approval of a ridgeline scenic corridor permit [Town Code §§ 17.020.030(A) and 17.060.030(A)(2)].

Other Agency/Department Comments/Conditions

Ross Valley Fire Department (RVFD)

RVFD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

All vegetation and construction materials are to be maintained away from the residence during construction, a fire sprinkler system shall be installed throughout the entire building, smoke detectors shall be installed throughout the entire building and be provided with AC power and be interconnected for simultaneous alarm, carbon monoxide alarms shall be provided outside each sleeping area in the immediate vicinity of the bedrooms and address numbers at least 4 " tall visible from the street and internally illuminated or illuminated by and adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.

Marin Municipal Water District (MMWD)

MMWD submitted written requirements which have been incorporated into conditions of approval in the attached resolution and are summarized as follows:

All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with, any landscaping plans must be reviewed and approved by the District, backflow prevention requirements must be met and Ordinance 420, requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town, all of the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District, Fairfax Police, Public Works and Building Departments

The Ross Valley Sanitary District and Fairfax Police, Public Works and Building Departments had no comments on or conditions for the project.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 19-07 by adopting Resolution No. 2019-07 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Resolution No. 2019-07

RESOLUTION NO. 2019-07

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit for a 345 Square-Foot Family Room and 355 Square-Foot Roof Deck Additions to the Existing Residence at 147 Pine Drive

WHEREAS, the Town of Fairfax has received an application from Julie and Christopher Gatty for a Conditional Use Permit to construct a 345 square-foot family room addition and a 355 square-foot roof deck to the residence at 147 Pine Drive; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 11, 2019 at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans submitted on February 7, 2019 the Planning Commission has determined that the applicants have met the burden of proof required to support the findings necessary for the project's requested discretionary Use Permit as long as certain conditions that are listed below, are met; and

WHEREAS, the Commission has made the following findings:

The project conforms to the following 2010-2030 Town of Fairfax General Plan Policies:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size and mass.

Policy LU-7.2.2: to the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Conditional Use Permit

1. The 345 square-foot family room addition and 355 square foot roof deck addition are similar in size, mass, design and location on the site to other residential structures in the Pine Drive neighborhood, 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 will not exceed the Floor Area Ratio or Lot Coverage limitations, will comply with the RS-6 Zone District setback requirements and the structure will maintain setbacks from structures on the immediately adjacent properties in excess of 40 feet. Therefore, the development and use of the property as approved 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 and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the use permit will maintain the remainder of the site in its natural state requiring no significant excavation and/or removal of trees or vegetation and will provide the owners with much needed outdoor space that is not available on the remainder of the site with its 44% slope. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

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 Rheanna LaRoche of Two by Design, pages A1.0, A1.1, A2.0 and A2.1 dated 2/6/19.
2. Prior to issuance of any of the building permits for the project the applicant or his assigns shall submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - a) Construction delivery routes approved by the Department of Public Works.
 - b) Construction schedule (deliveries, worker hours, etc.)
 - c) Notification to area residents
 - d) Emergency access routes
3. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).
4. The deck foundation elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Structural Engineer.
5. The grading and foundation elements shall also be stamped and signed by the project geotechnical engineer as conforming to the recommendations made by the project Geotechnical Engineer.
6. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and

the Ross Valley Sanitary District noting the development conformance with their regulations.

7. During the construction process the following shall be required:
 - a. The geotechnical engineer shall be on-site during the foundation grading process and shall submit written certification to the Town Staff that the grading has been completed as recommended prior to installation of foundation forms and/or piers.
 - b. Prior to the concrete form inspection by the building official, the geotechnical and structural engineer shall field check the forms of the foundation elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
 - c. The Building Official shall field check the concrete forms prior to the pour.
 - d. 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.
 - e. Any proposed temporary closures 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.
8. Prior to issuance of an occupancy permit the following shall be completed:
 - a. The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.
 - b. The Planning Department shall verify that all planning commission conditions have been complied with prior to issuance of the certificate of occupancy.
9. Excavation shall not occur between October 1st and April 1st of any year. The Town Engineer has the authority to waive this condition depending upon the weather.

10. The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.
11. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 19-07. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 19-07 will result in the job being immediately stopped and red tagged.
12. Any damages to the public portions of Pine Drive, Laurel Drive, Cascade Drive, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
13. 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.
14. 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 and Best Management Practices for Stormwater Pollution Prevention.

15. Conditions placed upon the project by outside agencies, Town department or by the Town Engineer may be eliminated or amended with that agency's, department's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
16. The final exterior lighting plan submitted with the building permit application shall use "dark sky" fixtures and shall be approved by the Planning Director prior to issuance of the building permit. The plan shall limit light-spillage beyond the areas necessary to light the rear deck, and shall avoid direct offsite illumination.

Ross Valley Fire Department

17. All vegetation and construction materials are to be maintained away from the residence during construction.
18. The project requires installation of a fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
19. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.
20. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
21. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in location that is visible from the street. The numbers must be internally illuminated or illuminated by and adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
22. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
23. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

Marin Municipal Water District (MMWD)

- 24. A copy of the building permit must be provided to the district along with the required applications and fees.
- 25. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
- 26. Any landscaping plans must be reviewed and approved by the District.
- 27. Backflow prevention requirements must be met.
- 28. Ordinance 420., requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town.
- 29. All of the District's rules and regulations if effect at the time service is requested must be complied with.

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 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 11th day of April, 2019, by the following vote:

- AYES:
- NOES:
- ABSTAIN:

Chair, Cindy Swift

Attest:

Ben Berto, Director of Planning and Building Services