

**TO:** Fairfax Planning Commission  
**DATE:** October 16, 2014  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Principal Planner  
**LOCATION:** 30 Deer Park Drive; Assessor's Parcel No. 002-171-09  
**ZONING:** Residential Single-family RS 6 Zone District  
**PROJECT:** Addition to a single-family residence  
**ACTION:** Use Permit; Application # 14-41  
**APPLICANT:** Walter Connolly  
**OWNER:** same  
**CEQA STATUS:** Categorically exempt, § 15301(e)(1)



## BACKGROUND

25,220 square foot site slopes down from Deer Park Drive with an average slope of 45% with and large rock outcropping that makes up the eastern portion of the site (Exhibit B - Marin Map elevation contour map).

The Planning Commission approved a Hill Area Residential Development Permit for the original house in 1992. In 1993, partway through the house construction, the applicant submitted an application for a modification of the original plans including a request for a Height Variance when it was determined that one corner of the garage exceeded the 35 foot height limit by 3 feet. The Variance request was granted.

Construction of the 2,861 square foot two bedroom, three bath house was completed in November of 1994 with the original permit issued in September of 1992 (house square footage does not include 620 square foot garage).

## DISCUSSION

The owner/applicant is now proposing to construct a 452 square foot art studio/bedroom and bath addition, with a small mechanical room underneath, on the top of the rock outcropping increasing the residence living space square footage to 3,313 square feet. The addition and home comply with the regulations for the Residential Single-family RS 6 Zone District 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 & 5 ft	20 ft	.40	.35	35 ft, 3 stories
Existing	6 ft	65 ft	71 ft	77 ft & 75 ft	152 ft	.11	.05	38 ft, 3 stories
Proposed	same	40 ft	46 ft	77 ft & 38 ft	115 ft	.13	.07	same

Town Code §17.080.050(C) requires that a property with a 45% slope be 37,000 square feet in size and 155 feet wide. The site is only 25,220 square feet and per Town Code §17.080.050 the project requires the approval of a Use Permit.

The addition does not require any other discretionary permits. It meets or exceeds all the required setbacks; it is only 22 feet in height and 2 stories well below the permitted 35 feet and 3 stories, and; the resulting 13% floor area ratio is well below the permitted 40% and the .07 lot coverage is well below the permitted 35%.

Construction will not require any significant amount of excavation or the removal of any mature trees so impacts to the site will be minimal.

The project is not 50% remodel so it does not require the approval of a Hill Area

Residential Development Permit or Design Review [Town Code §17.072.050(A) and §17.020.030(A)].

Homes in the neighborhood on similar sized and sloped properties vary in size from 1,452 square feet on a 98,881 square foot site to 3,456 square feet on a 29,750 square foot site. The proposed house will be 3,313 square feet on a 25,220 square foot size which is in keeping with the size and character of other similar properties.

The location of the addition is well away from any of the neighboring homes and is set back from the sheer face of the rock over 38 feet where it will not impact the house below at 139 Meernaa Avenue.

### **Other Agency/Department Comments/Conditions**

#### **Ross Valley Fire Department**

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
2. Carbon monoxide alarms shall be provided.
3. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.
4. The project must be reviewed and approved by the Ross Valley Fire Department as complying with Fire Code requirements prior to issuance of the building permit.

#### **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.

#### **Ross Valley Sanitary District**

1. Prior to issuance of the building permit the property owner shall contact the

District and apply for a District permit. The District will place a hold on property once the building permit is issued and will not release the project for its final inspection for occupancy until the District's permit and sewer requirements are met.

2. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.

The Fairfax Police Department and Building Department had no comments on or requirements for the project.

## **RECOMMENDATION**

1. Open the public hearing and take public testimony.
2. Close the public hearing and discuss.
3. Move to approve application # 14-41 based on the following findings and subject to the following conditions:

### **Recommended Findings**

The proposed addition complies with all the regulations set forth in the Residential Single-family RS 6 Zone District where the property is located. 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.

The addition maintains a 38 feet setback from the property line of the nearest adjacent residence at 135 Meernaa Avenue and therefore, will not have a significant impact on that owner's private property rights. 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.

The resulting 3,313 square foot residence with a 620 square foot attached garage is in scale with the 25,220 square foot site and is similar in size to other residences in the neighborhood on similar sized parcels. Therefore, 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 Fairfax General Plan and Zoning Ordinance.

The addition is located in an area where the amount of required excavation for construction is minimized and where no trees will need to be removed. Therefore, approval of the use permit will result in better development of the premises than would otherwise be the case if the addition were located on the wooded western side of the site.

## Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by Walter Connolly, dated 9/17/14, pages 1, A1 and A2 including 11' x 17' sets of plans showing original floor plans.
2. Prior to issuance of any of the residence building permits 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 public construction delivery routes (routes must be approved by Public Works Director).
  - c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways.
  - d. The foundation and retaining 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 Plan Checker.
  - e. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made 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 development conformance with their recommendations.
3. During the construction process the following shall be required:
  - a. The geotechnical engineer shall be on-site during the grading process (if there is any grading remaining to be done) and shall submit written certification to the Town Staff that the grading has been completed as recommended prior to installation of foundation and/or retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the geotechnical and structural engineers shall field check the forms of the foundations and retaining 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. The Building Official shall field check the concrete forms prior to the pour.

c. All construction related vehicles including equipment delivery, supply 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.

d. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

4. 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 field check the completed project to verify that all and planning commission conditions have been complied with including installation of landscaping and irrigation prior to issuance of the certificate of occupancy.

5. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

6. a) the roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

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

7. During construction the 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 # 14-41. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 14-41 will result in the job being immediately stopped and red tagged.

9. Any damages to 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,

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 all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District and Ross Valley Fire Department.

13. The applicant must comply with all outside agency conditions unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.

## **ATTACHMENTS**

Exhibit A – Marin Map topographic map of site





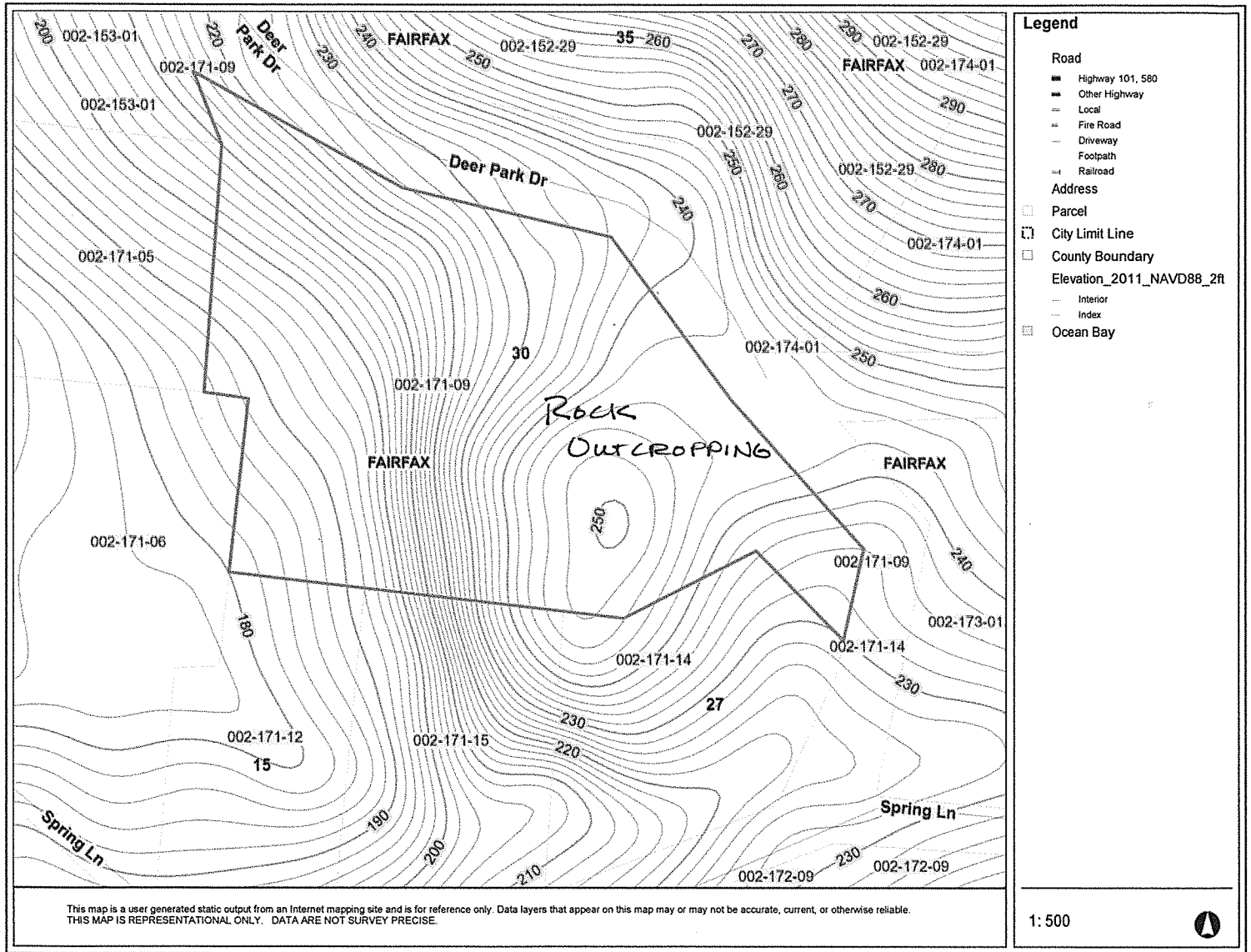


EXHIBIT # A

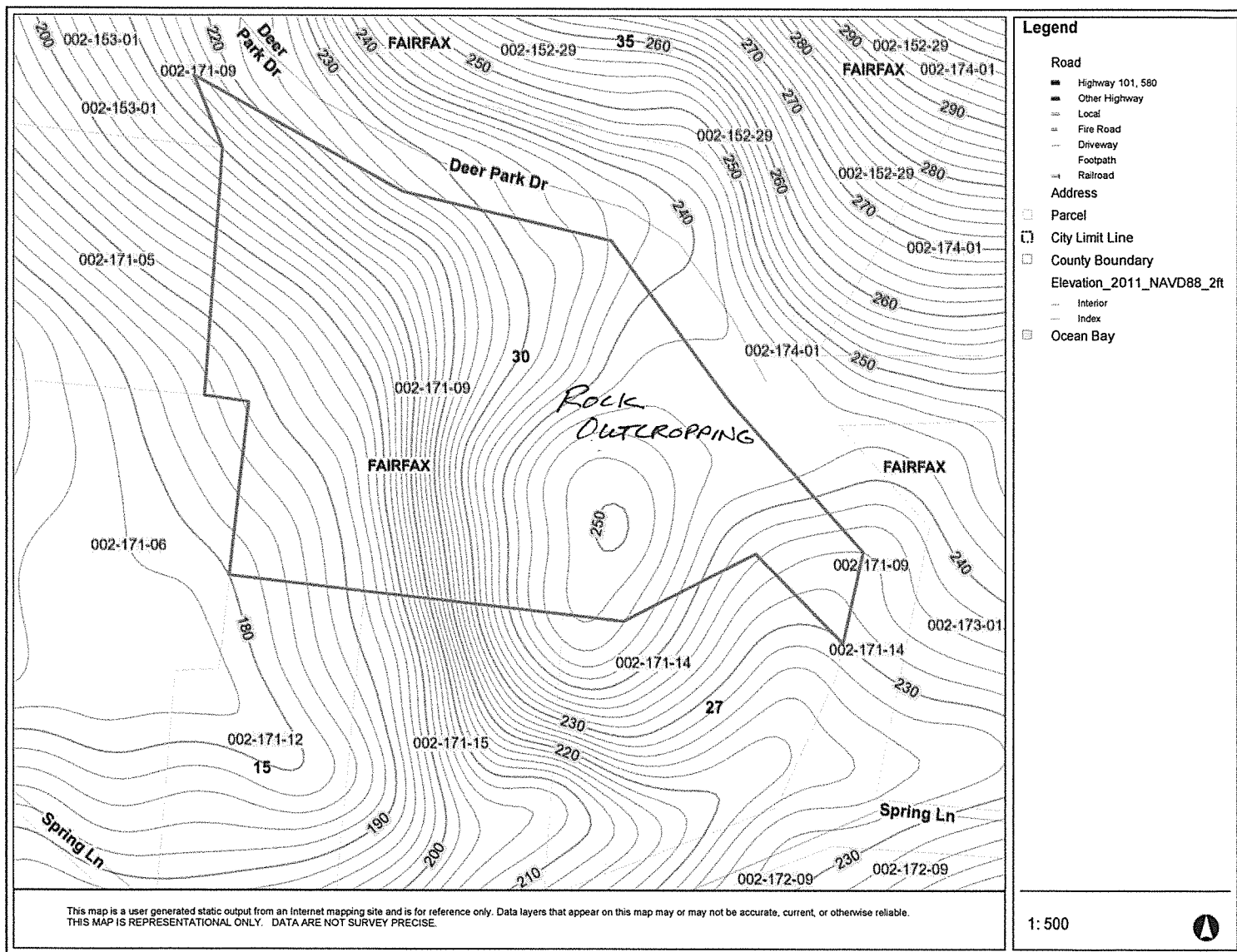


EXHIBIT # A