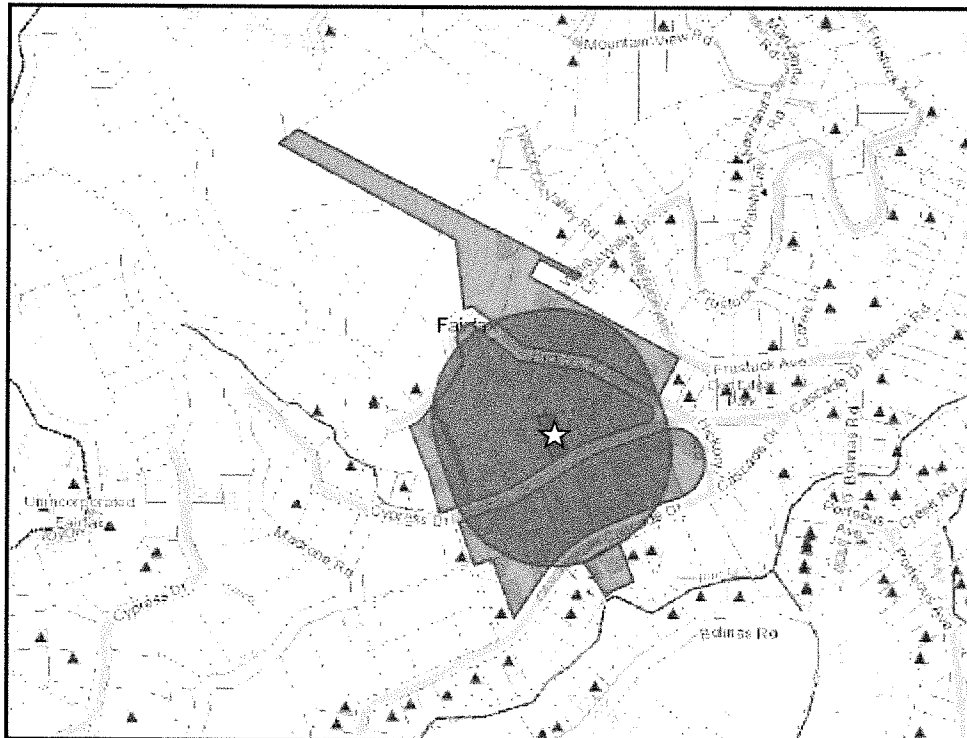


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: October 17, 2019
FROM: Ben Berto, Director of Planning and Building Services
Kara Spencer, Assistant Planner
LOCATION: 54 Cypress Drive; Assessor's Parcel No. 003-201-23
PROJECT: Substantial Remodel/Addition to a single-family residence
ACTION: Conditional Use Permit and Design Review Permit;
Application # 19-14
APPLICANT: Charles Cross, Property Owner
OWNERS: Charles Cross & Nopparat Kalayapongvanich
CEQA STATUS: Categorically exempt, §15301(a), (d), (e)(1), and (f)



54 CYPRESS DRIVE

BACKGROUND

The 6,550 square-foot site is relatively flat with an average slope of four percent. It is developed with a 1,189 square-foot, one-story, single-family dwelling constructed in 1930 that contains three bedrooms, one bathroom and a 180 square foot enclosed front porch. A detached, 304 square-foot, one-car garage is located at the rear of the property.

DISCUSSION

The project proposes to add 227 square feet to the rear of the existing single-family dwelling, resulting in a total of 1,416 square feet of living space. In addition, the project proposes to demolish the interior walls to reconfigure the layout and add a second bathroom. Other proposed work to the existing dwelling includes the following: installation of new windows and doors; repair/replacement of siding; installation of new type "A" fire rated roof; installation of sprinklers; construction of a new 318 square-foot deck off the rear addition; and a voluntary seismic upgrade. The project also proposes to rebuild the garage in its existing location. Other site work consists of new landscaping and a parking area for two vehicles. The uncovered parking area would be located behind the house and would consist of permeable crushed stone aggregate over leveled soil. Parking spaces would be 19 feet by nine feet. No new exterior lighting is proposed.

The following table illustrates the project's compliance with the regulations of the RS-6 Single-family Residential Zone District where the property is located:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 feet	6 feet	25 feet	5 feet	15 feet	.40	.35	28.5 feet; 2 stories
Existing	12 feet	3'-6"	15'-6"	3 feet and 8 feet	11 feet	.18	.27	15'-3"; 2 stories
Proposed	No change	No change	No change	No change	No change	.22	.30	No change

Required Discretionary Approvals

Conditional Use Permit (CUP)

Town Code § 17.080.050(A) requires a property in the Residential Single-family RS-6 Zone District with a slope of ten percent or less to be a minimum of 6,000 square feet in size and 60 feet wide. Any improvement of a property failing to meet the minimum site requirements requires a Conditional Use Permit (CUP). The project site is only 51 square feet in width. Therefore, the project requires the approval of a CUP by the Planning Commission.

The purpose of the CUP is, “to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or in a zone or only if the uses are designed or laid out on the site in a particular manner” [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 general welfare” [Town Code §17.032.010(B)].

In order to approve a CUP for the project, the Commission must make the following findings (Town Code Section 17.032.060): (1) granting of the approval would not constitute a “special privilege” nor contravene the doctrines of equity and equal treatment; (2) the project would not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects or create undue or excessive burdens in the use or enjoyment of the property; (3) approval of the project is in keeping with the objectives, goals or standards set forth in the Town of Fairfax General Plan; and (4) approval of the project would result in equal or better development of the premises than would otherwise be the case and the approval is in the public interest and for the protection and enhancement of the community.

As stated above, the applicant requests to increase the 1,189 square foot, single-family dwelling by 227 square feet, to a total area of 1,416 square feet. The floor area ratio would increase from .18 to .22. The table below illustrates that single-family dwellings in the immediate neighborhood range in size from 1,203 square feet to 2,397 square feet (1,837 square feet on average) with an average floor area ratio of .20. As indicated in the table, most of the neighboring properties are substantially larger than 54 Cypress with larger houses. While most of the neighboring properties have smaller floor area ratios than what is proposed for 54 Cypress, two properties have larger floor area ratios and one would be the same as 54 Cypress. Therefore, project implementation would result in 54 Cypress maintaining a similar size and floor area ratio as other properties in the immediate neighborhood.

54 Cypress Drive – Immediate Neighborhood Comparison						
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	Floor Area Ratio
003-203-12	49 Cypress	11,730 SF	2,194 SF	3	2	.19
003-201-21	50 Cypress	9,600 SF	2,394 SF	3	2	.25
003-203-11	53 Cypress	5,000 SF	1,415 SF	3	2	.28
003-203-32	59 Cypress	11,640 SF	2,397 SF	3	3	.21
003-201-24	60 Cypress	7,650 SF	1,203 SF	2	1.5	.16
003-201-25	68 Cypress	16,400 SF	2,160 SF	2	3	.13
003-203-27	69 Cypress	11,021 SF	1,695 SF	2	2	.15
003-201-19	45 Hickory	11,745 SF	1,939 SF	3	2	.17
003-201-18	51 Hickory	6,700 SF	1,370 SF	3	2	.20
003-203-11	55 Hickory	7,450 SF	1,606 SF	2	2	.22

The proposed 227 square-foot addition and 318 square foot deck proposed off it would not substantially expand the existing footprint at the rear of the single-family dwelling, nor would they encroach into the required setbacks. The lot coverage and floor area ratio would comply with the regulations set forth in the Residential Single-family RS-6 Zone District. The project would maintain the current height of the home at 15 feet, three inches, which is well below the maximum 28.5-foot height allowed in the RS-6 Zone District.

The project is a substantial remodel. Therefore, in compliance with Town Code § 17.016.040 C(1), the project proposes three off-street parking spaces: one covered space in the garage and two 19 feet x 9 feet uncovered spaces in the backyard to the rear of the proposed addition and deck.

The project would maintain a similar size and floor area ratio as other properties in the immediate neighborhood; comply with the regulations set forth in the Residential Single-family RS-6 Zone District; provide the required onsite parking; install sprinklers and a new type "A" fire rated roof; and, perform a seismic upgrade. Therefore, the project would not create a public nuisance, or cause excessive or unreasonable detriment to adjoining properties or premises, and the project would result in better development of the site than would otherwise be the case. Therefore, staff recommends that the Planning Commission approve the CUP for the project.

Design Review Permit

The project requires a design review permit because it is a substantial remodel. Town Code § 17.020.030(A) requires substantial remodel projects to obtain design review approval from the Planning Commission. In reviewing a project for a design review approval, the Commission is required to find that the project complies with the design review criteria contained in Town Code § 17.020.040, which include that the project will result in a well composed design that relates harmoniously to other structures in the vicinity and be of a quality and character that will protect the value of public and private investments in the immediate vicinity.

Currently, the house and garage are in disrepair due to deferred maintenance. The new foundations would stabilize the structures to current building codes, while maintaining the existing building heights. The existing siding would be retained and repaired and/or replaced where damaged with dry rot. The house is currently painted white with green trim. Behr paints heirloom sliver (light grey) is proposed for the siding and Behr paints white 52U #BL-W14 is proposed for the barge board, fascia, and trim. Graphite color (dark grey) duration max asphalt composite shingles are proposed for the roof. Refer to Attachment B for a depiction of the proposed finishes. The new windows would maintain the historic character of the home, while adding articulation to the structure. Regarding the proposed addition, it would be primarily limited to the existing footprint; it would maintain the historic character and architectural style of the home; and, the new roof line would continue the existing roof line. Currently, there is very little landscaping on the site due to foundation work. Existing fruit trees and shrubs would be maintained.

Proposed landscaping would provide visual interest and enhance the visual quality of the site. Therefore, for the reasons stated above the project complies with the design review criteria.

No new exterior lighting is proposed at this time and any future changes to the exterior lighting will have to comply with the following which staff has included as a condition of the project approval:

An exterior lighting plan showing existing and proposed lighting locations and fixtures shall be submitted with the building permit application and any new external lighting shall use dark sky compliant 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 entryways, travel paths, stairways, and parking lot and shall avoid direct offsite illumination.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department (RVFD)

The following summarizes RVFD requirements, which have been incorporated into conditions of approval in the attached resolution. Construction shall comply with the requirements of Chapter 7A of the 2016 California Building Code. 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. Address numbers at least 4 " tall are required and must visible from the street, controlled by a photocell and illuminated all night. A Vegetation Management Plan (VMP) is required for the project. RVFD approved the VMP for the project and the approved plan was submitted to the Town on October 2, 2019.

Marin Municipal Water District (MMWD)

Written requirements submitted by MMWD have been incorporated into conditions of approval in the attached resolution. The following summaries those comments. 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. Comply with Ordinance No. 429 requiring the installation of grey water recycling system when practicable for existing structures undergoing a substantial remodel that necessitates enlarged water service. 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 # 19-14 by adopting Resolution No. 2019-18 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A - Resolution No. 2019-18

Attachment B – Proposed Finishes

Attachment C – Color Elevations

Attachment D - Photographs of 54 Cypress and Surrounding Homes

RESOLUTION NO. 2019-18

**A Resolution of the Fairfax Planning Commission Approving Application
No. 19-14 for a Conditional Use Permit and Design Review Permit to
Expand/Remodel 54 Cypress Drive**

WHEREAS, the Town of Fairfax received an application from Charles and Nopparat Cross for a Conditional Use Permit and Design Review Permit to remodel and expand an existing 1,189 square foot, 3-bedroom, 1-bathroom single-family dwelling into a 1,416 square foot, 3-bedroom, 2-bathroom residence with a 318 square foot rear yard deck; and,

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Conditional Use Permit and Design Review Permit; and,

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

WHEREAS, the Planning Commission makes the following findings:

General Plan Compliance

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-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

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.

Policy LU-7.2.3: Traffic and parking concerns related to new and renewed development shall be addressed in a manner that does not result in undue hardship or significant negative impacts on properties and infrastructure in the vicinity.

ATTACHMENT A

Conditional Use Permit Findings

The project complies with the required setback, floor area ratio, lot coverage, and height regulations of the RS-6 Zone and would result in a residence similar in size, scale, and character to the other residences in the Cypress Drive neighborhood where the project site is located. Consequently, approval of the Conditional Use Permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment if the conditions of approval that follow in this resolution are complied with.

The project complies with all the development standards of the RS-6 Zone. Therefore, the development and use of property as approved under the Conditional 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 Conditional Use Permit.

Approval of the Conditional Use Permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010-2030 Fairfax General Plan and Title 17 of the Fairfax Town Code (Zoning Ordinance) or other plans or polies officially adopted by the Town.

Approval of the use permit would stabilize the garage and house; repair and/or replace damaged siding; increase fire safety by the installation of sprinklers and a new type "A" fire rated roof; and, provide additional off-street parking. Therefore, approval of the Conditional Use Permit would result in 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.

Design Review

The proposed improvements would refurbish structures suffering from deferred maintenance, while maintaining existing building heights and rooflines, as well as the historic character and architectural style of the house and garage. Consequently, the project complies with the Design Review Criteria contained in Town Code § 17.020.040.

Conditions of Approval

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 Steve Connelly, Architect, received by the Town on September 30, 2019, pages A-0, A-2.0, A-2.1, A-3.1, A-3.2, and L-01.

2. An exterior lighting plan showing existing and proposed lighting locations and fixtures shall be submitted with the building permit application and any new external lighting shall use dark sky compliant 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 entryways, travel paths, stairways, and parking lot and shall avoid direct offsite illumination.
3. 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
4. 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).
5. 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.
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. 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.
 - b. 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. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.

9. Prior to issuance of a certificate of occupancy or final inspection, the Planning Department shall verify compliance with all Planning Commission conditions.
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 # 19-14. 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 19-14 will result in the job being immediately stopped and red tagged.
12. Any damages to the public portions of Cypress 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, 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.

15. Conditions placed upon the project by outside agencies, a 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.

Ross Valley Fire Department

16. The project site is located in a Wildland Urban Interface Zone (WUI). Construction shall comply with the requirements of Chapter 7A of the 2016 California Building Code, including installation of a Class A Roof Assembly.
17. 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. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and /or design-build sprinkler systems.
18. 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.
19. 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.
20. Address numbers at least four 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.
21. Defensible Space shall be maintained around the construction. All debris, vegetation, and construction materials are to be cleared to not less than 30 feet from the construction area.
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.

24. A Vegetative Management Plan designed in accordance with the Ross Valley Fire Standard # 220 is required to be approved prior to issuance of the building permit for the project. Ross Valley Fire District approved the Vegetative Management Plan on October 1, 2019.

Marin Municipal Water District (MMWD)

25. 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.

26. The plans must comply with all the indoor and outdoor requirements of District Code Title 13, Water Conservation. Landscaping plans must be submitted to the District and be approved.

27. 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.

Other Outside Agency Requirements

28. 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 Department prior to issuance of the building permit.

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 and Design Review Permit is in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and,

Construction of the project can occur without causing significant impacts on neighboring residences.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 17 day of October, 2019 by the following vote:

AYES:
NOES:
ABSTAIN:

Chair, Cindy Swift

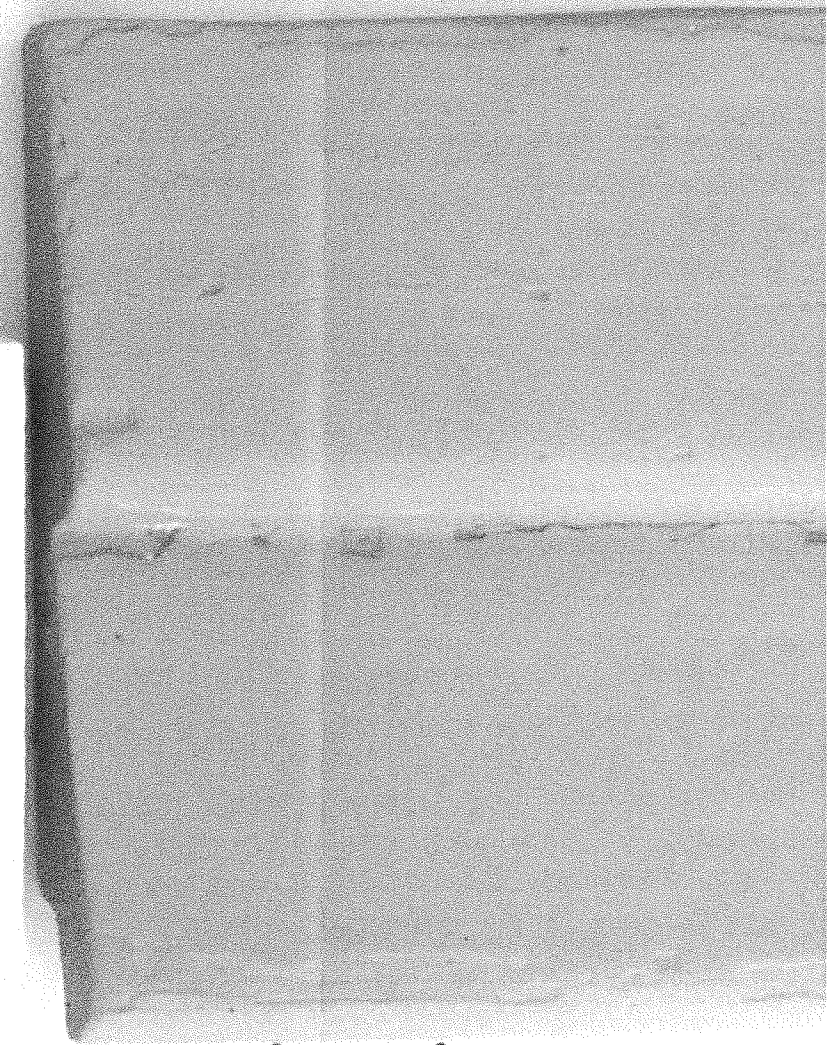
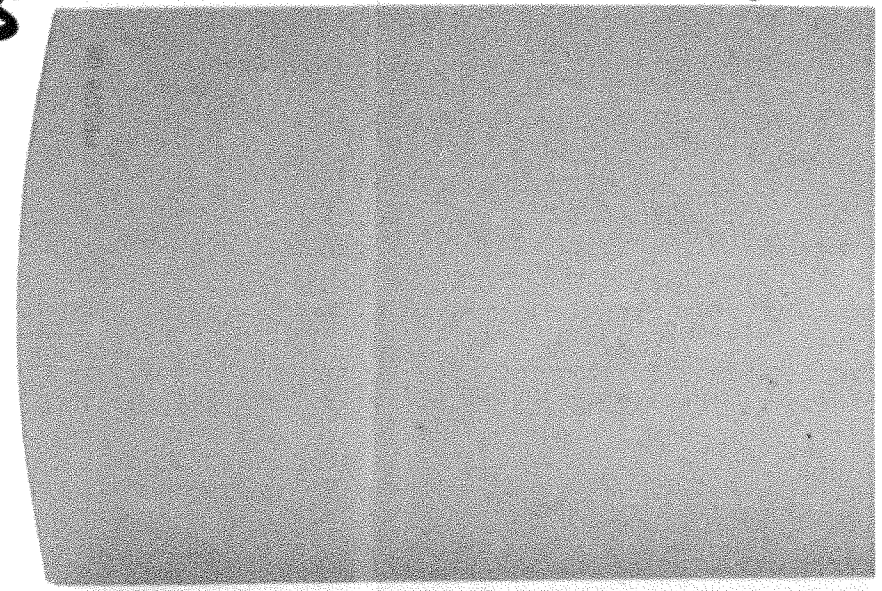
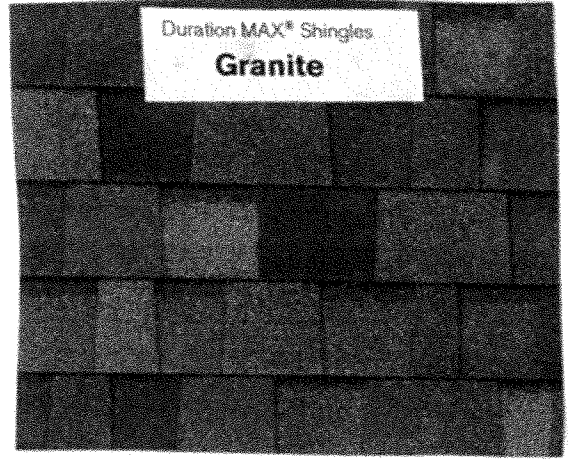
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Ben Berto, Director of Planning and Building Services

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54 CYPRESS FINISHES

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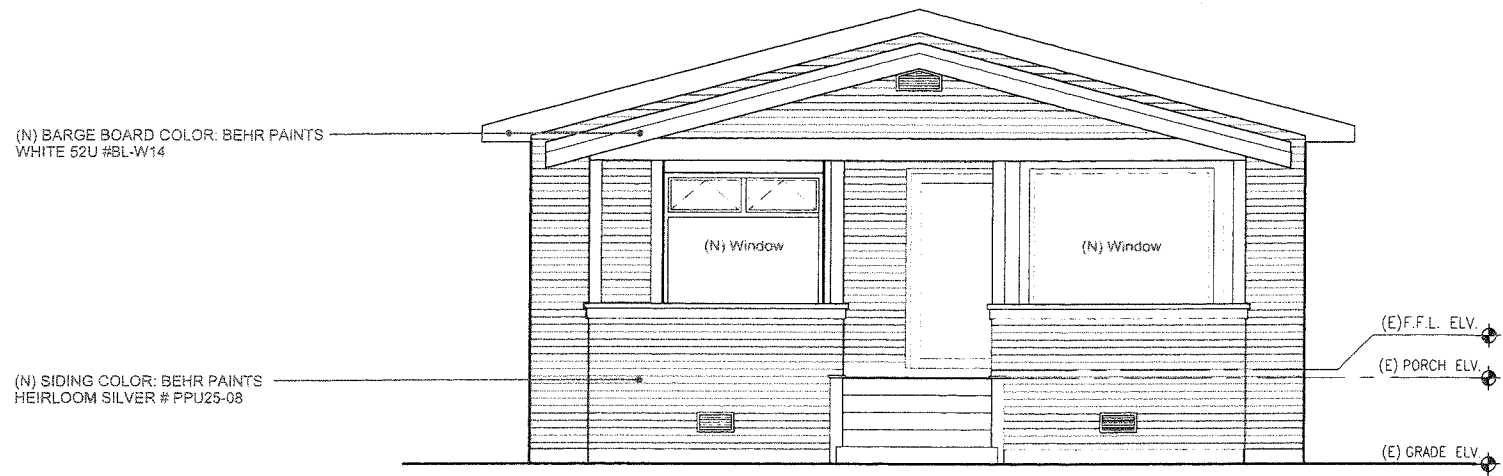
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BEHR BL-W14

DOOR/WINDOW TRIM

SIDING



1 New North Elevation

Scale: 1/4" = 1'-0"



2 New East Elevation

Scale: 1/4" = 1'-0"

54 CYPRESS DR

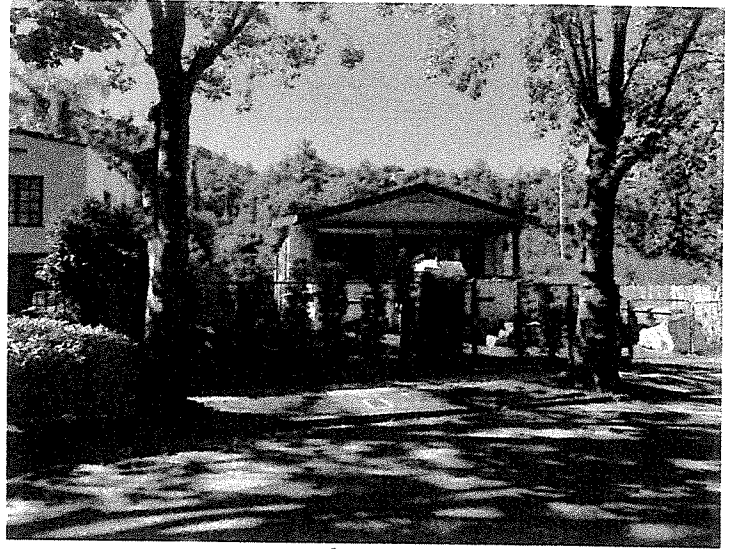
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54 CYPRESS DR
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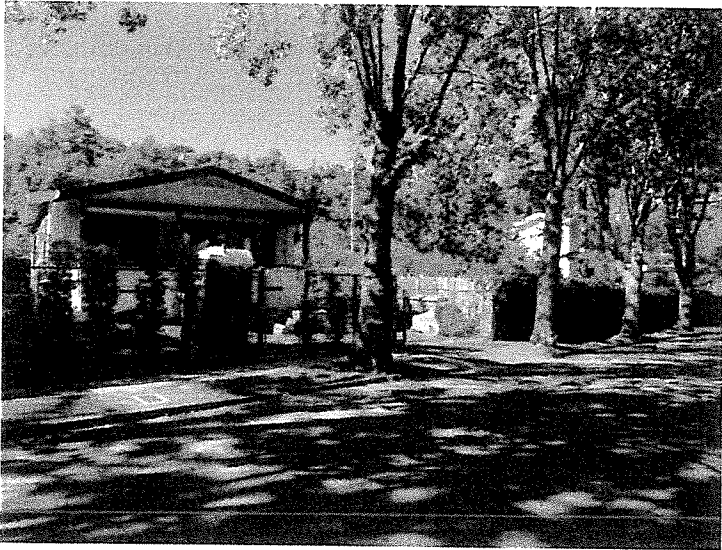
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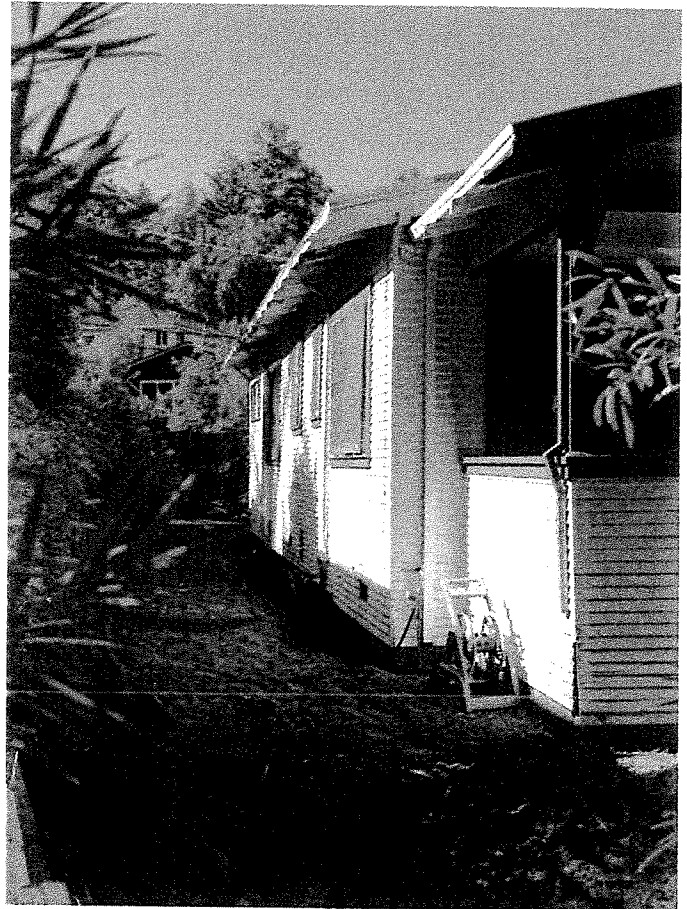
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54 CYPRESS (SUBJECT) FROM
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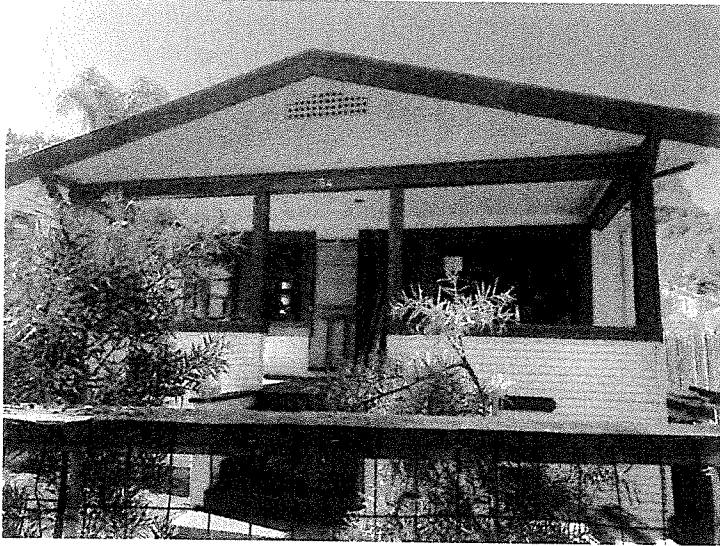


54 FROM STREET

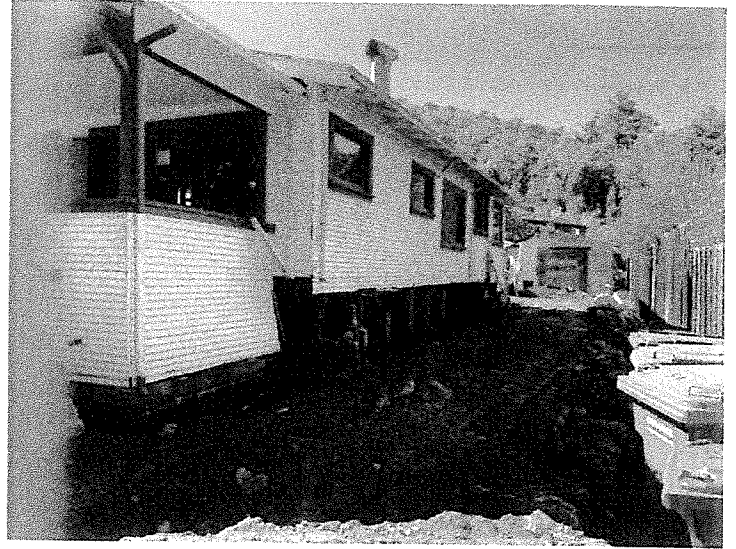


SUBJECT WEST ELEVATION
ATTACHMENT

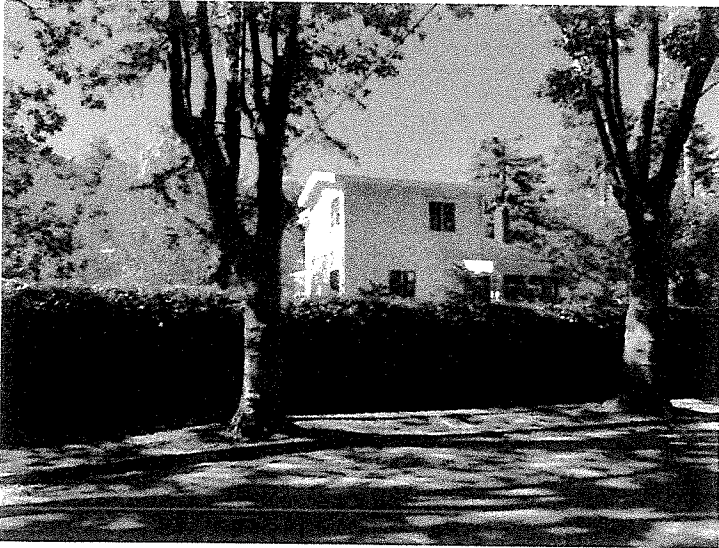
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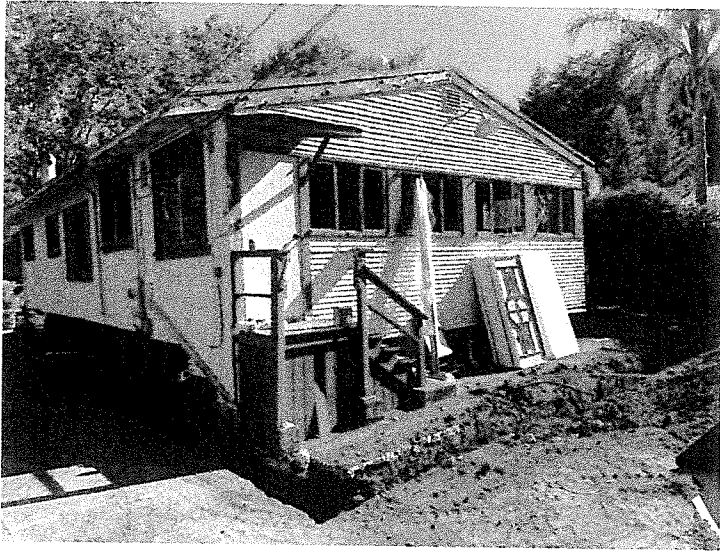
SUBJECT EAST ELEVATION
& DRIVEWAY



NEIGHBOR AT 50 CYPRESS



NEIGHBOR AT 50 CYPRESS



SUBJECT NORTH ELEVATION
(BACK YARD)