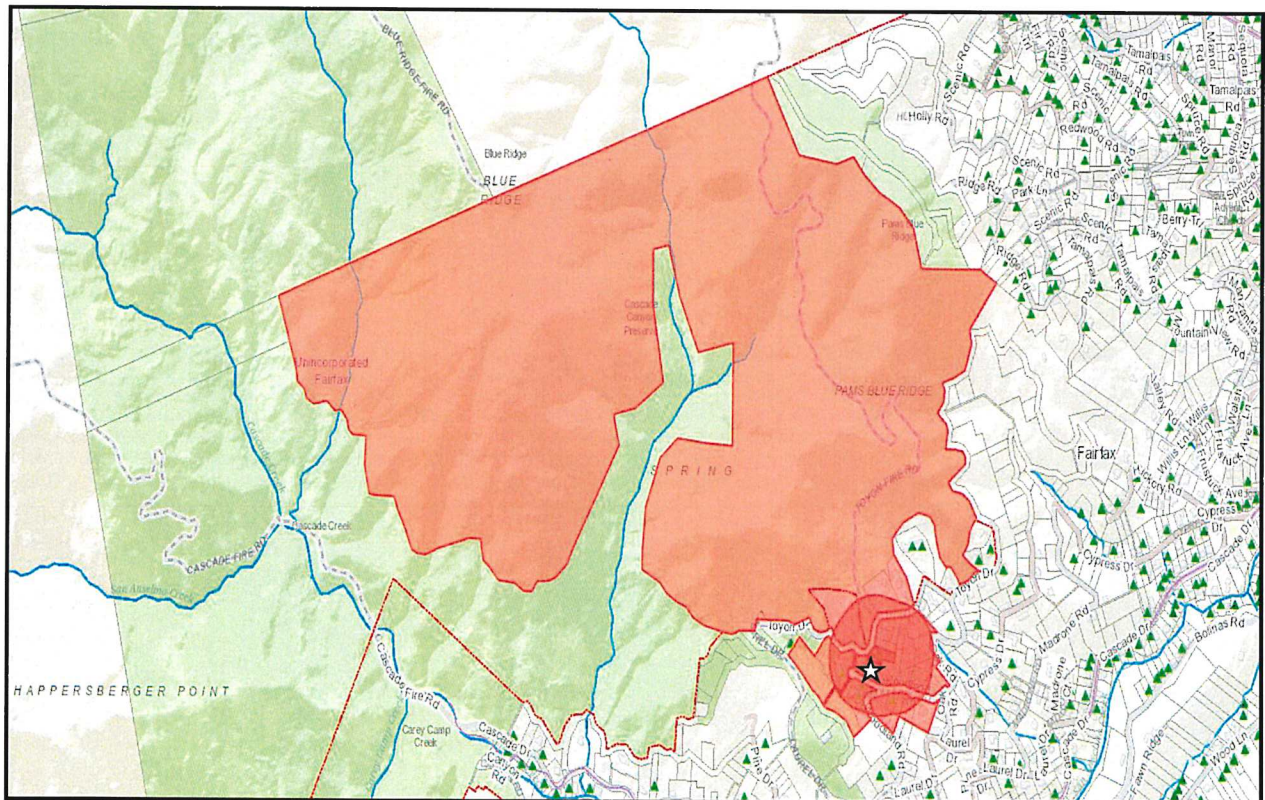


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: March 18, 2021
FROM: Linda Neal, Principal Planner
LOCATION: 88 Toyon Drive; Assessor's Parcel No. 003-081-39
PROJECT: Design Modification of a previously approved remodel/addition to a single-family residence and existing driveway improvements
ACTION: Hill Area Residential Development and Design Review permits; Application # 21-04
APPLICANT: Kenneth Holder, Architect
OWNER: Gregg Foster
CEQA STATUS: Categorically exempt, § 15301(e)(1)



88 TOYON DRIVE

AGENDA ITEM 4



DESCRIPTION

Applications were submitted on December 31, 2020, to modify the project previously approved by the Planning Commission on May 21, 2020. The project approved in May was for a 2,069 square-foot, 2 story, 4 bedroom, 2 ½ bathroom, single-family residence. The proposed revisions to the approved project include the following:

1. The proposed total square footage of living space has increased from 2,069 square feet to 2,319 square feet but does not increase the number of bedrooms or bathrooms.
2. The two bedrooms, the bathroom and the laundry closet originally approved on the first story within the crawlspace of the existing structure have been shifted to the east, to be located where the second story deck currently exists with the laundry closet replaced with a laundry room. The revisions increase the lower floor by 147 square feet beyond what was previously approved in May of 2020. The plans propose replacing the second-floor rear deck on the rooftop of the new 1st floor addition (plan page A2.1, drawing 2).
3. The 2nd floor plan has been modified to expand the kitchen and the dining room 103 square feet to the east with the rest of the floor plan remaining as approved on May 21, 2020 except for a minor relocation/reorientation of the interior stairway (plan page A2.1, drawing 1).
4. The swimming pool located on the west side of the structure will be repaired and retained while the previously approved project included filling the pool to create a lawn area (plan page A1.0).
5. The revised drainage plan, along with the revised project plans, has been reviewed by the Town Engineer, who has indicated that he can approve the revised plans. The only minor change to the drainage plan is to the drainage pipes that run down the sides of the building. The pipes jogged toward the rear center of the area behind the house at an 50° angle in the original proposal. This design was possible because the drainpipes could be placed underneath a portion of the rear deck to carry run off from the upper site and roof into a 20-foot-long level spreader. The angles maintained in the new proposal are closer to 90° angles as they proceed around the new lower floor addition before proceeding to the 20-foot level spreader.
6. The changes above have decreased the amount of excavation/fill required for the project from 140 cubic yards to 10 cubic yards of excavation, well below the amount that requires the approval of an excavation permit by the Planning Commission.
7. The landscaping plan has not changed and is the same one approved by Ross Valley Fire Department along with the vegetative management plan on March 4,

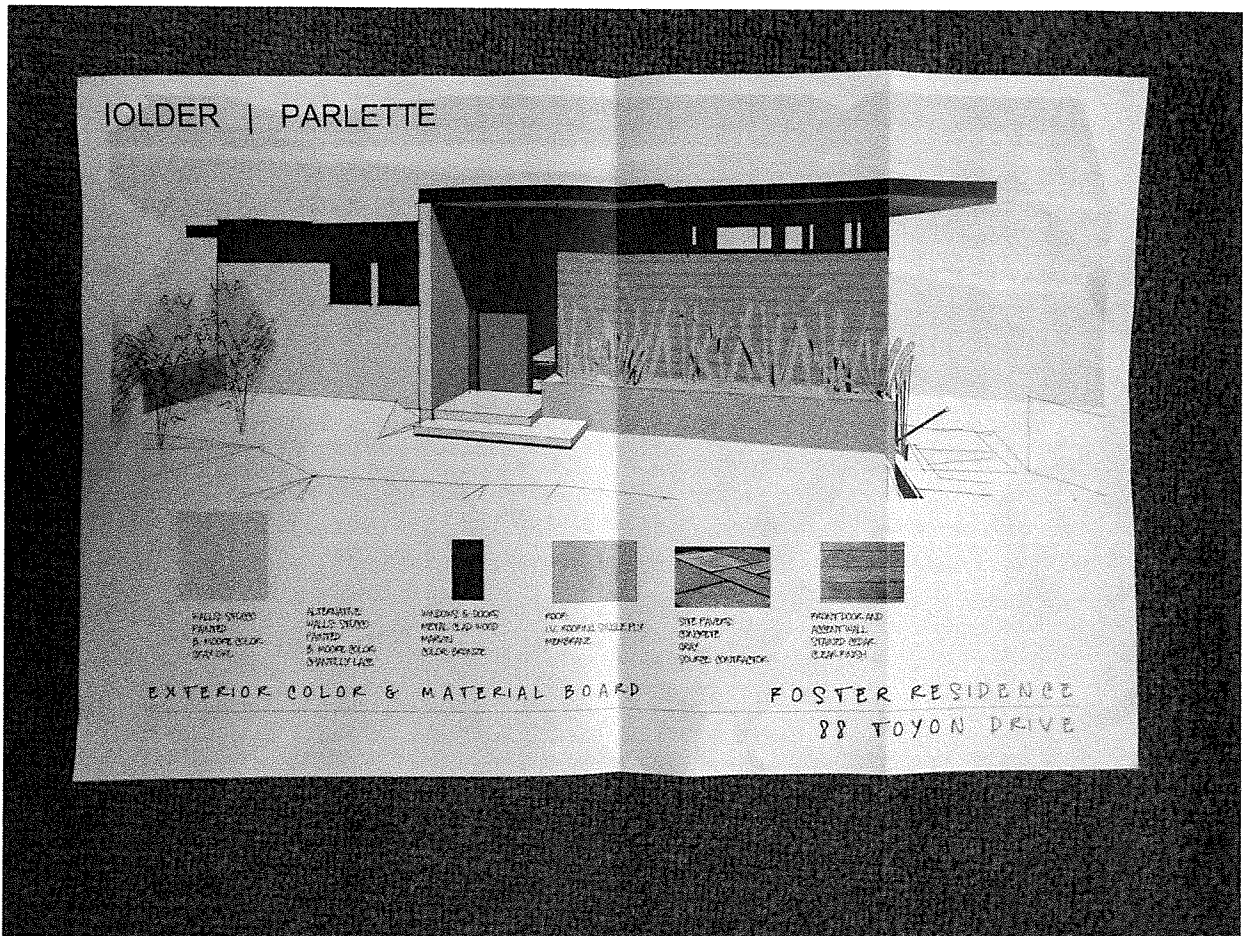
2020 except for the following: seven, 15-gallon, Pittosporum are proposed along the upper north side of the site to help screen the 90 Toyon Drive residence from vehicle headlight glare from cars using the circular driveway (plan page A1.4).

8. A 21 square-foot entry landing is proposed on the west side adjacent to the front door (plan page A2.1, drawing 1).
9. The existing roof is being replaced with stepped flat roof with a ¼ inch:1 foot slope. The proposed two-story house will reach a maximum height above grade of 23 feet (1 foot less than the maximum height of the existing structure). The code allows houses on down sloping lots to reach a maximum of 35 feet in height and 3 stories [Town Code § 17.080.060(A)]. The roof height and slopes can best be viewed on the plan set elevations found on pages A3.0 through A3.3 and A4.0.
10. The following window changes are proposed:
 - a) North elevation, plan sheet A3.0, a window is proposed in the first-floor addition and the second-floor master bathroom window has been changed to clerestory window, per the Planning Commission action of May 21, 2020.
 - b) East elevation, plan sheet A3.1, the two first floor sliding doors are proposed to be replaced with windows and no changes have been made to the second floor.
 - c) South elevation, plan sheet A3.2, two small windows oriented at right angles to each other are proposed to be replaced with a door into the first-floor family room. No other changes are proposed.
 - d) No changes are proposed to the west elevation which includes the second-floor front entry into the residence.

At the May 21, 2020 meeting the Commission required the following changes to the project prior to issuance of a building permit (see conditions in Resolution 2020-02, Attachment B to this staff report), after hearing concerns from a neighbor and discussing the project. Staff required the applicants to address the conditions in the project redesign as follows (revisions to address the conditions are explained in italicized font):

1. Resolution No. 2020-02, condition # 37: Prior to submittal of the plan for the building permit, the applicant shall provide revised plans for design review approval by the Planning Staff to include a revised lighting plan, including removal of the Hinkley spotlight fixture from the plan and use of fixtures that give off a warm light and an alternative natural paint color for the exterior stucco siding shall be proposed by the applicant with both the lighting and exterior color for review and approval by the Planning Staff.

The Hinkley spotlight has been removed from the plan and the remaining fixtures give off a warm light (2700 Kelvin). The stucco has been changed from white to a grey (Benjamin Moore Grey Owl – see color board below).



- Resolution No. 2020-02, condition # 38: A planting or fencing screen shall be created to block vehicle headlights from cars using the circular driveway to the access the site from shining into the windows of the house to the north at 90 Toyon Road.

A planting screen of 7 pittosporum has been provided along the northern side property line at the northwest corner of the site and a five-foot-tall headlight screening fence has been proposed projecting six feet to the west from the northwest corner of the house (see 8 ½ in. x 11 in. depiction stapled to the front corner of the large project plan sets). The neighbor at 90 Toyon Drive has reviewed and accepted the proposed screening methods. Staff has included a condition that the Ross Valley Fire Department approve an updated Vegetative Management plan including the additional screening planting prior to issuance of

the building permit. If the plan cannot be approved as proposed the original landscaping plan shall remain in place as previously approved.

3. Resolution 2020-02, condition 39: The master bathroom window in the upper floor north facing wall shall be a clerestory window, opaque or textured glass

The master bathroom window is proposed as a clerestory window (page A3.0, proposed north elevation).

4. Resolution 2020-02, condition 39: The deck screen on the north side of the upper deck shall be of horizontal cedar slats.

A privacy screen has been included on the north side of the upper deck and will be built out of horizontal, stained cedar slats.

The project still includes the following improvements to the driveway and exterior yard: a) widening and re-grading the existing circular driveway to provide the required 3 parking spaces and to comply with Marin County driveway standards for slope and grade transitions; b) abandoning the septic tank on the site; c) installing a sewer line and drainage system; and, d) widening Toyon Drive along the property frontage to provide the 20 foot wide 40 foot long fire truck staging area required by the Ross Valley Fire Department . Widening and re-grading the driveway and widening Toyon Road will not require the construction of any retaining walls that would require permits or Planning Commission approvals.

The proposed residential structure would contain the master bedroom and master bathroom, a ½ bathroom, kitchen, dining room and living room on the upper floor and 3 bedrooms, 1 bathroom, a laundry room, and another living room (family room) on the first floor.

The interior stairway connecting the 2 levels has been relocated.

The Commission should note that the trees approved for removal by their May 21, 2020 action on the tree removal permit have already been removed from the site, except for the 30" pine and the 21" pine trees (trees T-1 and T-3) within the Toyon Road right-of-way near the southern entry to the circular drive. The applicant has indicated that PG&E has agreed to remove these because they interfere with their power lines. The arborist inspection schedule and construction mitigation requirements are included in Resolution No. 2021-04 approving the revised project design through the inclusion of the 9/5/7 Urban Forestry Associates recommendations in condition #1 on page 2.

The residence complies with the regulations set forth in the Residential Single-family RS-6 Zone District and has not changed except for a one foot decrease in the structure maximum height as follows (the shifted lower addition will not project beyond the existing rear deck, so the footprint has not changed except for the approximately 60 square feet added to the fill in the eastern corner where the existing deck jogged back

towards the upper story living space.

	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	33 ft.	113 ft.	146 ft.	9 ft. & 40 ft.	49 ft.	.10	.07	24 ft., 2 stories
Proposed	no change	No change	No change	no change	no change	.14	.08	23 ft. 2 stories

BACKGROUND

The roughly 14,723 square-foot site is located on a downslope parcel fronting Toyon Road, with an average slope of 32%. The site is developed with a 1,530 square foot residential structure that was constructed in 1955 and is accessed by a circular driveway, portions of which are surfaced intermittently with dirt, gravel, and pavement. Directly below the house is the septic system which is not currently used and will be abandoned.

The site is identified as being within stability zone 4 on the "Observation of the Interpretation Map of the Relative Slope Stability of the Upper Ross Valley Area" prepared by Smith, Rice and Strand of the California Division of Mines and Geology in 1976 and located as mostly landslides on the new "Areas Susceptible to Landslides" map S-3 recently inserted into the Hill Area Residential Development Ordinance language by the Town (Ordinance No. 846, adopted 2/5/20 by the Town Council).

There was no sliding reported on the site during the severe weather events of 1982 and 1997-98.

In September 2018, the Building Official pulled the electrical service at the property when he discovered that significant demolition work had occurred without the benefit of necessary permits. The amount of work was significant enough that this Department made the determination that restoring the structure would constitute a 50% remodel, triggering Planning Commission review of a Hill Area Residential Development Permit.

The Planning Commission adopted Resolution No. 2020-02 on May 21, 2020 approving a Hill Area Residential Development Permit, Design Review Permit, Excavation Permit and Tree Removal Permit for a similar project on the site (Attachment B).

REQUIRED DISCRETIONARY PERMITS

The project requires the approval of Hill Area Residential and Design Review permits. The required discretionary permits and analysis of project compliance with the related sections of the Town Code and Zoning Ordinance are found below.

The project provides the required 3 parking spaces per Town Code § 17.052.030(A)(1) and (2) and is exempt from the covered parking requirement due to the site's 32% downhill slope, per Town Code § 17.052.020(D).

Hill Area Residential Development

The purpose of the Hill Area Residential Development Permit is to encourage the maximum retention of natural topographic features, minimize grading of hillside areas, provide a safe means of ingress and egress to and within hillside areas, minimize water run-off and soils erosion during and after construction, prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards, and to ensure that infill development on hillside lots is of a size and scale appropriate to the property and is consistent with other properties in the vicinity under the same zone classification [Town Code sections 17.072.010(A) and (B)].

Town Code §17.072.090(C)(1) requires graded slopes to be sculptured and contoured to blend with the natural terrain and Town Code §17.072.090(C)(3) requires that the height of retaining walls be minimized within the Hill Area Residential Development Overlay Zones. The only new wall being proposed is a concrete wall to replace the wooden one currently located below the existing swimming pool.

Other than construction of new foundation beneath the proposed addition, and filling in the septic tank to the east, the only other site excavation/fill will occur to install the new drainage system and install the new sewer line (the sewage was previously pumped up to Toyon Road with a sewer ejector pump).

The proposal will result in modest widening of the existing circular driveway to provide adequate access for vehicles into the already developed site with additional widening adjacent to the proposed new residence to provide the 3 parking spaces required in Town Code § 17.052.030(A)(1)(d) and (A)(2).

Town Code § 17.072.090(D) indicates that projects within the Hill Area Residential Development Overlay Zone shall be designed to minimize disruptions of existing ecosystems.

All construction will occur on the property in areas that have already been disturbed by the existing development except for the area where the new sewer line will be constructed.

The existing redwood septic tank will be abandoned as described on page 2 of the 2/10/20 report by the Geotechnical Engineering by cleaning the tank out, filling the cavity with concrete and then removing the redwood and capping the area off with 18 inches of compacted soil.

Staff has included a condition (Resolution 2021—06, cond. #36) that a deed restriction, with an attached site map exhibit showing the abandoned septic tank location, be recorded at the Marin County Recorder's Office prior to issuance of the building permit, limiting future development in this area without proper engineering and elimination of the deed restriction. This will ensure that no future owners do not attempt to build on the abandoned septic tank location without appropriate engineering reports which will have to be submitted and peer reviewed and approved by the Town Engineer, after which the deed restriction will be lifted.

The property is within ¼ mile of a known Northern Spotted Owl nesting site. Therefore, construction may not occur or must be minimized and/or monitored to be kept below certain noise levels to limit negative impacts to the birds during the nesting season which runs from February 1st through July 1st. Acts that result in the disturbance or death of Northern Spotted owls are a federal offense. Staff has included condition #34 in attached Resolution No. 2021-06, stipulating that construction may not occur during the previously referenced nesting season unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State Department of Fish and Wildlife, with documentation of the approval provided to the Town, prior to initiation any construction activities. All requirements listed in the plan, including potential onsite monitoring, must be met by the applicants at all times.

Drainage and Slope Stability

The Town Engineer reviewed the entire body of information provided by the applicants on the project, including: the project engineering and architectural plans as well as the geotechnical reports by Dave Olnes Civil and Geotechnical Engineer dated 12/20/17, 5/9/18 and 2/10/20 (Attachment D), the hydrology and hydraulic calculations report dated 4/12/18 and response to the Town Engineers original project comments dated 5/9/18 by CSW/Stuber-Stroeh Engineering Group (Attachment E) and the new sewer easement agreement between the owners and the neighboring owner 75 Woodland Road (Attachment F). After completing their review and visiting the site on 5/22/18, the Town Engineer has determined that the project can be constructed as currently proposed without creating any significant geologic or hydrologic hazards for adjacent public or private properties.

Water run-off from the hillside and driveway above the house will be collected in two drop inlets at the front of the house and will be conveyed via 4-inch pvc piping around the north and south sides of the house to a 20-foot-long level spreader that will spread and disperse the water slowly into the soil downslope of the house. The water from the roof will be collected by roof drain downspouts at the rear of the structure and will drain

into the same spreader system.

House Siting and Design

As indicated above, the project will not extend beyond areas of the site that are already disturbed by development except for the area where the new sewer line will be extended. The overall project is very modest in scope relative to the existing house.

Tree Removal Permit

The tree removal permit was approved on May 21, 2020, most of the trees have already been removed, and there are no additional trees proposed for removal in this design revision.

The arborist map indicates that the entire property should be a defensible space zone. Therefore, included in the resolution recommending approval of the project is a condition that any future tree removal, beyond the trees previously approved for removal in Resolution No. 2020-02 on May 21, 2020, will require the review and approval of the Tree Committee and may also require review and approval with mitigation measures of the geotechnical engineer if the tree removal may affect hillside stability below the structure at a future date to be determined by the Town Engineer (Resolution No. 2021-06, condition # 2h).

Design Review

Town Code §17.020.030(A) requires that the design of new residences be reviewed and approved by the Fairfax Planning Commission for compliance with the design review criteria contained in Town Code §17.020.040.

These criteria include but are not limited to the following:

- “The proposed development shall create a well composed design harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community”.
- “The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has balance and unity among its external features so as to present a harmonious appearance”.
- “The extent to which natural features, including trees, shrubs, creeks and rocks and the natural grade of the site are to be retained”.

The proposed remodel and expansion of the existing structure is within the footprint of the existing house, deck and septic tank and will require minimal disturbance to the site.

The structure conforms to the general character of other structures in the vicinity and will look very similar to the original dwelling, involving minimal disturbance to the 14,723 square foot site.

The exterior of the structure will be very similar to that of the original structures but will be further articulated by the stepped height of the roof and windows of differing sizes and shapes, as well as using varied siding materials including portions that will be painted stucco and other portions that will be surfaced in cedar siding.

The applicants propose painting the stucco siding (which will remain), grey (Benjamin Moore - Grey Owl), the windows and doors with be metal clad Marvin windows with bronze trim, the roof will be a gray single-ply membrane (flexible sheets of compounded plastic-derived material that are used to cover and protect flat and low-sloped buildings), the west wall of the front entry will be stained cedar with a clear finish and the front door will be stained cedar with clear finish (see photo of color board on page 4 above).

The grey color proposed for the stucco, is a more natural tone to help the house blend into the hillside than the originally proposed white color.

The site is very large by Fairfax standards – 14,723 square feet - and as conditioned the project will not have a substantial visual impact on any of the neighboring residences due its modest scope and the large setbacks it will maintain from the property lines. Additionally, the current/proposed house has a relatively small footprint - 1,033 square feet - in relation to the site size, with a maximum height of 23 feet. The remainder of the site will be retained in its natural state, except for the areas of the site already occupied by the pool, driveway, and septic tank.

88 TOYON DRIVE – SIMILAR PROPERTIES DEVELOPMENT							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
003-081-28	89 Woodland Rd.	13,650	1,341	2	1.5	0	.10
003-081-30	51 Oak	20,400	2,596	3	2.5	420	.13
003-081-34	10 Woodland Ct.	10,600	2,448	3	2	0	.23
003-081-38	120 Toyon	19,875	1,508	2	2	380	.08
003-151-03	97 Oak	24,700	2,379	3	2	580	.06
003-051-05	144 Toyon	14,850	2,553	3	4	450	.17
003-152-17	286 Cypress	13,965	2,070	2	2	160	.15
003-152-18	88 Oak	10,864	2,816	2	2.5	525	.26

003-152-28	156 Toyon	11,226	1,806	4	2.5	0	.16
003-152-29	164 Toyon	17,718	2,510	3	2.5	407	.14
003-152-30	104 Oak	18,343	2,304	2	2	357	.13
003-152-35	320 Cypress	13,200	1,527	3	2.5	375	.12
DEVELOPMENT OF PROPERTIES IN THE IMMEDIATE NEIGHBORHOOD ON TOYON ROAD							
003-081-15	94 Toyon	7,564	2,594	3	3	0	.34
003-081-27	112 Toyon	9,500	1,830	2	2	0	.19
003-081-35	74 toyon	5,300	1,604	3	3	592	.30
003-081-36	78 Toyon	6,100	2,040	2	2.5	0	.33
197-090-01	99 Toyon	90,653	2,077	3	2.5	0	.02
003-152-06	96 Oak Road	6,750	2,082	3	3	0	.42
003-152-07	94 Oak Road	6,150	608	1	1	0	.10
PROJECT SITE							
88 Toyon Rd.		14,723	2,319	4	2.5	0	.16

The house has been designed to be in scale with the project site and similar in size to other structures in the neighborhood and on similar sized and sloped sites throughout the hillsides of Fairfax.

Excavation

Town Code §12.20.080 requires that an Excavation Permit be obtained from the Planning Commission for excavation and fill amounts of over 100 cubic yards. The total amount of excavation for the revised project is 10 cubic yards so the project no longer requires the approval of an excavation/fill permit by the Planning Commission.

OTHER DEPARTMENT/AGENCY 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 apparatus access road a minimum of 20 feet wide shall be located so that no portion of the first floor exterior walls is greater than 150 feet from where fire can set up operations (already in the project design), A hydrant capable of supplying 500 gallon per minute of water at 20 pounds per square inch of pressure shall be located so that no portion of the structure is greater than 350 feet from the closest hydrant. The closest hydrant has a flow of 347 gallons per minute at 20 pounds per square inch and will need to be upgraded, a fire sprinkler system shall be installed throughout the entire building, a vegetation management VMP designed in accordance with Ross Valley Fire Standard 220 is required, 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 shall be installed.

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 MMWD, 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 MMWD must be provided to the Town, all of MMWD's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

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

The project will require a connection permit from the District, the size of the sewer lateral will depend on the fixture count calculated during the permitting process, if the lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral must be tested in the presence of a District Inspector and found to meet all current District Requirements.

Police, Building and Public Works Departments

There were no comments received from the Police, Building or Public Works Departments.

Staff has added the following additional conditions to the resolution recommending approval of the project:

1. The driveway improvement, except for the paving, shall be completed and be signed off by the Town Engineer, the Building Official and the Ross Valley Fire Department before construction on the house begins.
2. Road closures shall be noticed in the field a minimum of 5 days prior to the event and individual written notifications shall be delivered to each affected resident on Toyon Road.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve Application 21-04 and adopt Resolution No. 2021-06 (Attachment A), setting forth the findings and conditions for project approval. Please note that Resolution No. 2021-06 is an updated version of the original Resolution No. 2020-02, updated (redlined) with the changes that are driven by the design change.

ATTACHMENTS

- Attachment A – Resolution No. 2021-06
- Attachment B - Resolution No. 2020-02
- Attachment C - Town Engineer's final report on project
- Attachment D- 2/10/20, 5/9/18 and 12/20/17 Olnes geotech reports
- Attachment E – 4/12/18 Hydrology and Hydraulic Calcs and 5/19/18 response to comments by CSW/Stuber-Stroeh Engineering
- Attachment F- Urban Forestry Associates, Inc. Tree Preservation/Protection Plan dated 9/5/17
- Attachment G – Sewer easement agreement
- Attachment H - Approved vegetative management letter from Ross Valley Fire dated 3/4/20
- Attachment J – previously plans approved 5/21/20

RESOLUTION NO. 2021-06

A Resolution of the Fairfax Planning Commission Approving Application No. 21-04 for a Hill Area Residential Development, and Design Review Permits for a Residence at 88 Toyon Road

WHEREAS, the Town of Fairfax has received an application from Gregg Foster to build a 2-story, 2139 square foot, 4-bedroom, 2½-bathroom single-family residence on December 21, 2020; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on March 18, 2021 at which time the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance, and Design Review 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 Hill Area Residential Development, Excavation, Tree Removal and Design Review Permits; and

WHEREAS, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

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.

Policy LU-4.1.4: New and renewed development shall be designed to minimize run-off in a manner that does not cause undue hardship on neighboring properties.

Policy S-3.1.3: Maximize access and egress for emergency response vehicles.

Hill Area Residential Development

The proposed development is consistent with the General Plan and the Residential Single-family RS 6 Zone regulations.

- 1. The site planning preserves identified natural features as much as possible while also complying with other agencies' regulations.
2. Vehicular access and parking are adequate.

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ATTACHMENT A

3. The proposed development harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040.
4. The approval of the Hill Area Residential Development permit for one single-family residence on a 14,723 square foot parcel 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 Hill Area Residential Development 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. Approval of the proposed Hill Area Residential Development permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
7. Approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The project is approved per the following plans and documents: Architectural plans by Holder-Parlette Architecture, pages A0.0 through A0.2, A1.0 through A1.4, A2.0 through A2.2, A3.0 through A3.3 and A4.0 dated 2/22/21, a tree preservation plan (TPP) dated 2/22/21, engineering plan sheets C-1 through C-6 by LTD Engineering, Inc. dated 11/23/20, the geotechnical report by Dave Olnes dated 2/10/20, 5/5/18 and 12/20/17, CSW Stuber-Stroeh report dated 5/9/18, and the arborist report by Urban Forestry Associates, Inc. dated 9/5/17.
2. Prior to issuance of any of the building permits for the project 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:
 - i. Construction delivery routes approved by the Department of Public Works.
 - ii. Construction schedule (deliveries, worker hours, etc.)
 - iii. Notification to area residents

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¶ The Town Engineers have reviewed the following plans and reports and have determined the project can be constructed, with certain conditions of approval, without creating any hazards:¶

¶ Architectural plans by Holder-Parlette dated 3/4/20¶ 2/10/20, 5/9/18 and 12/30/17 geotechnical report by Dave Olnes, Civil and Geotechnical Engineer¶ 4/12/18 Hillside Dissipater Hydrology and Hydraulic Calculations by CSW/Stuber-Stroeh Engineering Group¶ 5/9/18 Report by CSW/Stuber-Stroeh Engineering Group¶

¶ Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:¶

¶ The health safety and welfare of the public will not be adversely affected;¶

¶ Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;¶

¶ Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;¶

¶ The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;¶

¶ The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;¶

¶ Natural landscaping will not be removed by the project more than is necessary; and¶

¶ Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.¶

¶ Construction may not occur or must be minimized and/or monitored to be kept below certain noise levels to limit negative impacts to the Northern Spotted Owls during ... [1]

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iv. Emergency access routes

- b. The applicant shall prepare, and file with the Public Works Director, a video recording of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director). In creating the video particular attention shall be paid to the area northwest of the upper, west entrance to the circular driveway where there are 2 existing sink hole areas that cross Toyon Drive which are deteriorated. If the project further damages these areas, this area of roadway shall be restored when the road is widened to create the fire truck staging area. Or, if the areas are not further damaged by the project construction vehicles, and if the owner is willing, the Commission would encourage the owner to repave the areas when the road is widened to create the fire truck staging area for the benefit of the neighborhood.
- 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. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.
- 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 Town Structural Engineer.
- 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 Geotechnical Engineer.
- f. 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 recommendations.
- g. Submit 3 copies of the record of survey with the building permit plans.
- h. Three copies of the Tree Protection/Preservation Plan by Urban Forestry Associates, Inc. dated September 5, 2017 shall be submitted with the building permit application and all recommendations included in this report in the arborist checklist on pages 12, 13 and 14 shall be conditions of the project approval. All the inspections contained in the inspection schedule on page 12 of the report shall be made by the project arborist who shall provide the Town with written verification after each inspection that the work is progressing in compliance with the recommendations and

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conditions of the arborist.

- i. Prior to the removal of any trees not approved by the Planning Commission ~~prior May 21, 2020 action~~, the applicant shall secure a tree cutting permit, if required, from the Fairfax Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 8.36 ~~and may also require the review and approval with mitigation measures of the project geotechnical engineer if the Town Engineer determines the tree removal may affect the hillside stability below the structure at any future date.~~ To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water and drainage) which incorporates the services of the project arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. In particular, cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams.
- j. If deemed necessary by the Town Engineer, the applicants shall prepare a drainage system maintenance agreement including a recordable exhibit of the proposed drainage system in its entirety including a maintenance schedule to be approved by the Town Engineer. The maintenance agreement will have to be signed by the owner, ~~notarized and~~ recorded at the Marin County Recorder's office prior to issuance of the building permit.

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3. During the construction process the following shall be required:

- a. The geotechnical engineer and the project arborist shall be on-site during the grading process and both shall submit written certification to Town Staff that the grading and tree protection measures have been completed as recommended prior to installation of foundation and/or retaining forms and drainage improvements, ~~piers,~~ and supply lines.
- 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 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.

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- 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.
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 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 and Town Engineer shall field check the completed project to verify that all Planning Commission conditions and required engineering improvements 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 of any year. The Town Engineer has the authority to waive this condition depending upon the weather.
 6. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them, daily, if necessary.
 7. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 21-04. 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 20-3 will result in the job being immediately stopped and red tagged.
 8. Any damages to the public portions of Toyon, Oak, Woodland, Laurel, Cascade, or other public roadway used to access the site resulting from construction-related activities shall be the responsibility of the property owner.
 9. 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,

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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.

10. 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.
11. Conditions placed upon the project by outside agencies or by the Town Engineer may be eliminated or amended with that agency's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
12. Conditions placed upon the project by the project arborist may be amended or eliminated by the approval of the Planning Director after receiving a request for the elimination/amendment in writing from the project arborist.
13. The building permit plans shall be reviewed and approved by the Town Engineer, at the expense of the applicant, prior to issuance of the building permit. The project shall be inspected by the Town Engineer prior to issuance of the occupancy permit for the residential structures for compliance with the engineering plans.

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Ross Valley Fire Department

14. Project has been deemed a "substantial remodel" and as such 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.
15. The property is located within the Wildland Urban Interface Area for Fairfax and the new construction must comply with Chapter 7A of the California Building Code or equivalent.

16. 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.
17. 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.
18. 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.
19. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
20. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
21. All vegetation and construction materials are to be maintained away from the residence during construction.
22. A fire apparatus access road a minimum of 20 feet wide shall be located so that no portion of the first-floor exterior walls is greater than 150 feet from where fire can set up operations (already in the project design).
23. A hydrant capable of supplying 500 gallon per minute of water at 20 pounds per square inch of pressure shall be located so that no portion of the structure is greater than 350 feet from the closest hydrant.
24. If a new hydrant is proposed to meet the above condition the proposed hydrant shall be identified as either private or public and the type shall be specified in the building permit submittal plans.

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Marin Municipal Water District (MMWD)

25. A copy of the building permit must be provided to the district along with the required applications and fees.
26. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.

- 27. Any landscaping plans must be reviewed and approved by the District.
- 28. Backflow prevention requirements must be met.
- 29. 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.
- 30. All of the District's rules and regulations in effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

- 31. The project will require a connection permit from the District.
- 32. The size of the sewer lateral will depend on the fixture count calculated during the permitting process.
- 33. If the lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral must be tested in the presence of a District Inspector and found to meet all current District Requirements.

Miscellaneous

- 34. Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1st through July 31st, unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State Department of Fish and Wildlife, with documentation of the approval provided to the Town, prior to initiation any construction activities. All requirements listed in the plan, including potential onsite monitoring, must be met by the applicants at all times.
- 35. Any future tree removal, beyond the trees proposed for removal in the 3/92020 Tree Removal Application will require the review and approval of the Tree Committee and may also require review and approval with mitigation measures of the geotechnical engineer if the tree removal may affect hillside stability below the structure at a future date.
- 36. A deed restriction, with an attached site map exhibit limiting construction and showing the abandoned septic tank location shall be recorded at the Marin County Recorder's Office prior to issuance of the building permit and limiting future development in this area without proper engineering and elimination of the deed restriction.

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¶ The revised plan submittal for Planning Director design review approval shall also include "vehicle headlight" screening between the circular driveway and the neighboring property at 90 Toyon Road. Recommended methods of screening are fencing and/or landscaping. ¶

¶ The master bathroom window in the upper floor north facing wall shall be a clerestory window or opaque if they are not clerestory windows. ¶

¶ The deck screen on the north side of the upper deck shall be of horizontal cedar slats.¶

¶ An alternative paint color for the exterior stucco siding shall be proposed by the applicant for review and approval by the Planning Staff.¶

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

The approval of the Hill Area Residential Development Permit, Excavation Permit, Tree Removal Permit and Design Review Permit are in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the project 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 18th day of March 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

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Michele Rodriguez, Chair

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Attest:

Ben Berto, Director of Planning and Building Services

RESOLUTION NO. 2020-02

A Resolution of the Fairfax Planning Commission Approving Application No. 20-03 for a Hill Area Residential Development, Excavation, Tree Removal and Design Review Permits for a Residence at 88 Toyon Road

WHEREAS, the Town of Fairfax has received an application from David and Stephanie Russell to build a 2-story, 2,069 square foot, 4-bedroom, 2½-bathroom single-family residence on August 27, 2019; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on May 21, 2020 at which time the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance, Excavation Ordinance, Tree Ordinance and Design Review 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 Hill Area Residential Development, Excavation, Tree Removal and Design Review Permits; and

WHEREAS, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

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.

Policy LU-4.1.4: New and renewed development shall be designed to minimize run-off in a manner that does not cause undue hardship on neighboring properties.

Policy S-3.1.3: Maximize access and egress for emergency response vehicles.

Hill Area Residential Development

The proposed development is consistent with the General Plan and the Residential Single-family RS 6 Zone regulations.

1. The site planning preserves identified natural features as much as possible while also complying with other agencies' regulations.
2. Vehicular access and parking are adequate.

3. The proposed development harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040.
4. The approval of the Hill Area Residential Development permit for one single-family residence 14,723 square foot parcel 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 Hill Area Residential Development 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. Approval of the proposed Hill Area Residential Development permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
7. Approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

Excavation Permit

8. The Town Engineers have reviewed the following plans and reports and have determined the project can be constructed, with certain conditions of approval, without creating any hazards:

Architectural plans by Holder-Parlette dated 3/4/20
 2/10/20, 5/9/18 and 12/30/17 geotechnical report by Dave Olnes, Civil and Geotechnical Engineer 4/12/18 Hillside Dissipater Hydrology and Hydraulic Calculations by CSW/Stuber-Stroeh Engineering Group
 5/9/18 Report by CSW/Stuber-Stroeh Engineering Group

9. Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:
10. The health safety and welfare of the public will not be adversely affected;
11. Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
12. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;

13. The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;
14. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
15. Natural landscaping will not be removed by the project more than is necessary; and
16. Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.
17. Construction may not occur or must be minimized and/or monitored to be kept below certain noise levels to limit negative impacts to the Northern Spotted Owls during the nesting season which runs from February 1st through July 1st

Tree Permit

- The alteration of the trees is necessary to protect the public health and safety and prevent damage to property (Town Code §8.36.060(B)(1); and
- Is necessary to allow the owner to reasonably develop and use the property (Town Code §8.36.060(B)(4).

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The project is approved per the following plans and documents: Architectural plans by Holder-Parlette Architecture, pages A0.0 through A1.4, A2.0 through A2.2 and A3.0 through A3.4 dated 3/4/20, a tree preservation and protection plan (TPP) by Holder/Parlette (previously referenced plan page A1.4) with final revision date 3/4/20, engineering plan sheets C-1 through C-6 by LTD Engineering, Inc. dated 7/16/19, the geotechnical report by Dave Olnes dated 2/10/20, 5/5/18 and 12/20/17, CSW Stuber-Stroah report dated 5/9/18, and the Tree Removal Application dated 3/4/20 with the attached arborist report by Urban Forestry Associates, Inc. dated 9/5/17 and the Vegetative Management Plan (VMP) by Holder/Parlette (previously referenced plan page A1.2) dated 3/4/20.
2. Prior to issuance of any of the building permits for the project 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:

- i. Construction delivery routes approved by the Department of Public Works.
 - ii. Construction schedule (deliveries, worker hours, etc.)
 - iii. Notification to area residents
 - iv. Emergency access routes
- 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). In creating the video particular attention shall be paid to the area northwest of the upper, northwest entrance to the circular driveway where there are 2 existing sink hole areas that in Toyon Drive. If the project further damages these areas, this area of roadway shall be restored when the road is widened to create the fire truck staging area. Or, if the areas are not further damaged by the project construction vehicles, and if the owner is willing, the Commission would encourage the owner to repave the areas when the road is widened to create the fire truck staging area for the benefit of the neighborhood.
- 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. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.
- 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 Town Structural Engineer.
- 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 Geotechnical Engineer.
- f. 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 recommendations.
- g. Submit 3 copies of the record of survey with the building permit plans.
- h. Three copies of the Tree Protection/Preservation Plan by Urban Forestry Associates, Inc. dated September 5, 2017 shall be submitted with the building permit application and all recommendations included in this report in the arborist checklist on pages 12, 13 and 14 shall be conditions of the project approval. All the inspections contained in the inspection schedule

on page 12 of the report shall be made by the project arborist who shall provide the Town with written verification after each inspection that the work is progressing in compliance with the recommendations and conditions of the arborist.

- i. Prior to the removal of any trees not approved by the Planning Commission through this action, the applicant shall secure a tree cutting permit, if required, from the Fairfax Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 8.36. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water and drainage) which incorporates the services of the project arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. In particular, cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams. Any pruning shall take place during the winter when trees are dormant for deciduous species and during July to August for evergreen species.
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3. During the construction process the following shall be required:

- a. The geotechnical engineer and the project arborist shall be on-site during the grading process and both shall submit written certification to Town Staff that the grading and tree protection measures have been completed as recommended prior to installation of foundation and/or retaining forms and drainage improvements, piers and supply lines.
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by the Building Official on a case-by-case basis with prior notification from the project sponsor.

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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.

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Ross Valley Fire Department

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Marin Municipal Water District (MMWD)

25. A copy of the building permit must be provided to the district along with the required applications and fees.

26. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
27. Any landscaping plans must be reviewed and approved by the District.
28. Backflow prevention requirements must be met.
29. 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.
30. All of the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

31. The project will require a connection permit from the District.
32. The size of the sewer lateral will depend on the fixture count calculated during the permitting process.
33. If the lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral must be tested in the presence of a District Inspector and found to meet all current District Requirements.

Miscellaneous

34. Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1st through July 31st, unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State Department of Fish and Wildlife, with documentation of the approval provided to the Town, prior to initiating any construction activities. All requirements listed in the plan, including potential onsite monitoring, must be met by the applicants at all times.
35. Any future tree removal, beyond the trees proposed for removal in the 3/9/2020 Tree Removal Application will require the review and approval of the Tree Committee and may also require review and approval with mitigation measures of the geotechnical engineer if the tree removal may effect hillside stability below the structure at a future date.
36. A deed restriction, with an attached site map exhibit limiting construction in the pool area and showing the abandoned pool location, be recorded at the Marin County Recorder's Office prior to issuance of the building permit if the project is approved.

37. Prior to submittal of plans for the building permit, the applicant shall provide revised plans for design review approval by the Planning Staff to include a revised lighting plan, including removal of Hinkley Spotlight fixture from the plan and use of fixtures that give off a warm light and an alternative natural paint color for the exterior stucco siding shall be proposed by the applicant with both the lighting and exterior color for review and approval by the Planning Staff.
38. The revised plan submittal for Planning Director design review approval shall also include "vehicle headlight" screening between the circular driveway and the neighboring property at 90 Toyon Road. Recommended methods of screening are fencing and/or landscaping.
39. The master bathroom window in the upper floor north facing wall shall be a clerestory window, opaque or textured glass.
40. The deck screen on the north side of the upper deck shall be of horizontal cedar slats.

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

The approval of the Hill Area Residential Development Permit, Excavation Permit, Tree Removal Permit and Design Review Permit are in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

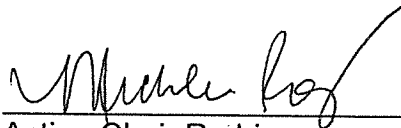
Construction of the project can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21st day of May 2020 by the following vote:

AYES: Fragoso, Kehrein, Newton, Swift, Gonzalez-Parber, Acting Chair Rodriguez

NOES: None

ABSTAIN:



Acting Chair Rodriguez

Attest:



Ben Berto, Director of Planning and Building Services