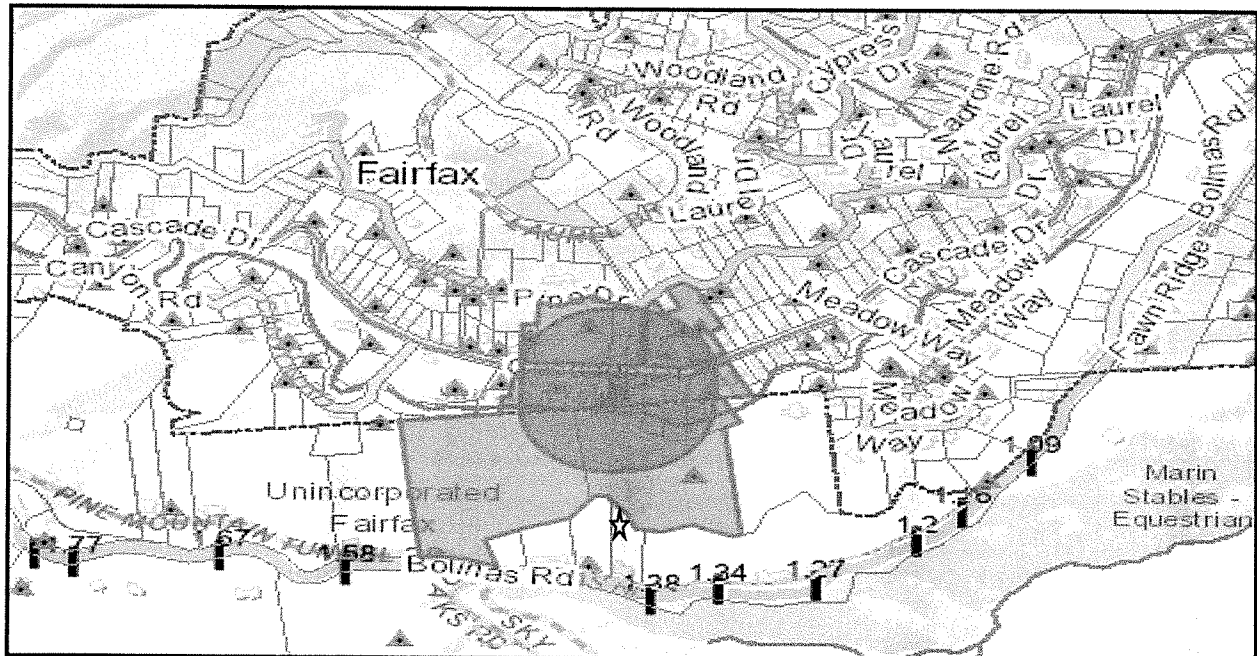


**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** May 20, 2021  
**FROM:** Ben Berto, Director of Planning and Building  
**LOCATION:** 403 Cascade Drive; Assessor's Parcel No. 003-044-10  
**ZONING:** Residential Single-family RS-6 Zone  
**PROJECT:** Construction of a new single-family residence  
**ACTION:** Use Permit and Design Review Permit; Application # 21-10  
**APPLICANTS/** Jon Fernandez/Fernandez S2 Partnership Architecture  
**OWNERS:** Daniel Thompson  
**CEQA STATUS:** Categorically exempt, §15303



## 403 CASCADE DRIVE

### BACKGROUND

The applicant is proposing to demolish and replace his approximately 1,288 square foot generational family home on a 6,000 square foot lot. The proposed house would be two stories, containing 1,136 square feet of habitable area on the first floor (plus a 467 square foot attached garage) and 609 square feet on the second floor, for a total habitable area of 1,745 square feet. The upstairs is proposed for the master bedroom, bathroom, and closet, with an approximately 6' deep x 10' wide deck off the rear (south)

**AGENDA ITEM 4**

side facing the cree.

The building would feature a 2.5:12 standing seam metal gable-style roof and have a maximum height of 22 feet. Proposed siding is dark brown smooth hand-troweled stucco, windows are oil-rubbed brown aluminum, and the standing seam metal roof would have a shop (plain metal) finish.

The parcel itself is mostly level, with a steep creek bank beyond the rear property line, to San Anselmo Creek.

Design Review is required for a new residence, and a Use Permit is required since the 50' lot width falls below the 60' minimum lot width for the RS-6 Zoning District.

## DISCUSSION

The proposed project is quite modest, with the building footprint almost the same size and location as the existing house, and the second story level is limited to the rear of the structure. The 22-foot maximum height of the building is approximately 3'9" lower than the newly constructed house to the west. Side second story windows will have a minimum plate height of 6 feet above finished floor, preserving neighbors' privacy.

The applicant is not proposing new landscaping. The new driveway is proposed to be shifted to the west side of the front of the site, fitting between two sycamore trees.

Insofar as the driveway is proposed to be a new location from where it has historically been located and will create new impacts on the mature sycamores that grace the front of the property (as do sycamores with the rest of the neighborhood frontage), staff recommends as a Condition of Approval that the applicant have a certified arborist evaluate potential root impacts from the driveway's proximity to the trees, and propose recommended measures to minimize any identified impacts.

The proposed project complies with the Residential RS-6 Zone District requirements as follows:

	<b>Front Setback</b>	<b>Rear Setback</b>	<b>Combined Front/rear Setback</b>	<b>Side Setbacks</b>	<b>Combined Side Setbacks</b>	<b>FAR</b>	<b>Lot Coverage</b>	<b>Height</b>
<b>Required/ Permitted</b>	6 ft.	6 ft.	25 ft.	5 ft. & 5 ft.	15 ft.	.40	.35	28.5 ft., 2 stories
<b>Proposed</b>	27 ft.	24 ft.	51 ft.	6 ft. & 15 ft.	22 ft.	.29	.27	22 ft., 2 stories

## Discretionary Permits

### Design Review Permit

Town Code § 17.020.030(A) requires Design Review Permit approval from the Planning Commission prior to the physical improvement of any (newly) undeveloped site.

As noted above, the proposed home is very refreshingly modest in design, including 8 foot plate heights and a very low roof slope. In fact, the Commission could consider allowing the applicant, if he so desires, to increase the roof pitch from 2.5:12 to a more standard 3:12, Staff makes this unusual recommendation because of the low proposed building height, the increased pitch would only raise the roof height by around 7 inches, and doing so might reduce roof material expense and weatherproofing issues.

The size and location of the residence are also reasonable – as can be seen from the above zoning chart and neighborhood comparison below. The project complies with all pertinent zoning requirements. The proposed project's FAR is .29, versus a maximum allowable FAR of .40. Proposed combined side yard setbacks are 22 feet, versus the minimum required combined setback of 15 feet. Relative to other properties in the vicinity, the property is solidly in the middle of house sizes and house versus lot size. Staff guesses that many of the properties with small houses and low FAR's are older (for example, most of those have only one bathroom).

Staff is concerned that the proposed driveway location directly on the property line would require the removal of vegetation that provides some pleasant property line greenery and would also adversely affect the Sycamore closest to the property line. Staff has therefore included conditions requiring that the driveway be moved two feet further east into the property, be of gravel, and the applicant obtain an arborist's report describing recommendations to minimize stress to the two Sycamore trees between which the new driveway will be located.

The table below summarizes lot and residence sizes for homes in the immediate area.

403 Cascade Drive – COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
003-043-12	430 Cascade	6650	1968	2	2	280	.30
003-043-13	432 Cascade	6100	840	2	1	216	.14
003-043-14	434 Cascade	6500	1128	2	2	0	.17
003-043-15	444 Cascade	8100	1214	3	1.5	670	.17
003-043-08	407 Cascade	6382	2225	3	2.5	467	.35
003-043-16	402 Cascade	6800	1242	2	1	945	.24
003-043-17	396 Cascade	6800	1093	3	1	400	.16
003-044-17	415 Cascade	7000	1028	3	2	240	.15
003-044-21	419 Cascade	7975	1719	3	2	389	.22
003-101-19	370 Cascade	6000	1354	2	1	548	.23
003-101-20	378 Cascade	5890	1290	2	1	364	.22
003-101-22	388 Cascade	6800	912	3	2	600	.15
003-102-01	397 Cascade	6720	1066	2	1	400	.16
003-044-08	411 Cascade	6650	2,211	3	2.5	504	.33
PROJECT SITE - PROPOSED							
003-043-10	403 Cascade	6000	1745	2	2	467	.29

Note that for some of the properties FAR calculations include garage area in excess of 500 square-feet as required in Town Code § 17.008.020, Definition of Floor Area.

### **Use Permit**

Town Code § 17.084.050 requires that a Use Permit be obtained from the Planning Commission prior to physical improvement of any site or structure failing to meet the minimum size or width requirements based on the site average slope. The project site is 50 feet wide with an average slope of less than 10 feet, while Town Code § 17.080.050 requires that such a property have a 60-foot minimum width.

The purpose of the Use Permit process is to ensure the integration into the Town and a neighborhood of uses in this case which are designed in a particular manner. In reviewing a use permit application, the Commission should analyze the surrounding sites and neighborhood and give due regard to the project's design and orientation to ensure that the public health, safety and welfare are protected.

The proposed residential use is consistent with all underlying zoning standards such as setbacks (including combined setback), size, and height. The residence will only result in the removal of small, non-native vegetation. Overall grading or other site disturbance is very modest.

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

**Ross Valley Fire Department, Fairfax Police and Building Departments, Marin Municipal Water District and Ross Valley Sanitary District**

Staff has not received any comments from reviewing agencies.

MMWD has indicated that they will continue to provide water service to the site. A grey water system may be required.

### **RECOMMENDATION**

1. Conduct the public hearing on the project.
2. Move to approve application 21-10 by adopting attached Resolution No. 2021-12 setting forth the findings and conditions of approval for the amended project.

### **ATTACHMENTS**

Attachment A: Resolution No. 2021-12

## RESOLUTION NO. 2021-12

### **A Resolution of the Fairfax Planning Commission Approving a Design Review Permit and Use Permit for a New Residence at 403 Cascade Drive**

**WHEREAS**, the Town of Fairfax has received an application from Jon Fernandez on behalf of Dan Thompson for a new, 1,745 square foot single family residence with an attached 467 square foot garage at 403 Cascade Drive; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on May 20, 2021, at which time the Planning Commission determined that the proposed project as amended complies with the Town Zoning Ordinance; and

**WHEREAS**, based on the plans and other documentary evidence in the record the Planning Commission has determined that the project as amended meets the burden of proof required to support the findings necessary to approve the Design Review Permit and the Use Permit; and

**WHEREAS**, the Commission has made the following findings:

1. The proposed residence design, as amended, meets the Town design criteria and therefore complies with the following 2010-2030 Fairfax General Plan Policies and Goals, Use Permit Findings and Design Review Criteria:

Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass. The project meets all applicable zoning standards.

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.

The project will create a well composed design, harmoniously related to other residences in the immediate area and to the total setting.

The project as amended conforms to the requirements for landscaping, screening, usable open space and the design of parking areas set forth in this title.

The size and design of the project is in proportion to its building site and has a balance and unity among its external features so as to present a harmonious appearance.

The approval of project shall not constitute a grant of special privilege because the project will comply with the setback, height, floor area ratio, lot coverage, and parking regulations for the RS-6 Zone District where the property is located.

**ATTACHMENT A**

Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.

The project as amended will not cause excessive or unreasonable hardship to adjoining properties or premises or cause adverse physical or economic effects.

Approval of the project as amended not contrary to the objectives, goals or standards pertinent to the project and contained within the Zoning Ordinance.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with all conditions set forth in this approval, as follows:

1. Except as amended by these conditions, this approval is limited to the plans prepared by Fernandez/2 Partnership Architecture, consisting of 12 sheets and dated received March 8, 2021.
2. The driveway shall be shifted to be located a minimum of two feet from the westerly property line. With the exception of the mock orange tree, existing landscaping on the westerly property line shall be preserved.
3. The driveway shall be of pervious materials (e.g. gravel).
4. The failing retaining wall at the southeast property corner shall be replaced with a stable retaining structure. Any work on the easterly neighbor's property shall require the prior written approval of the neighbor.
5. Prior to issuance of the building permit for the project the applicant shall provide a report from a certified arborist evaluating potential impacts from the proposed driveway on the two adjoining Sycamore trees and recommending what measures should be taken to minimize impacts to those trees. All such measures shall be incorporated by reference as conditions of approval.
6. The following color and materials palette is approved for the project:
  - a. Siding: Hand-troweled stucco colored dark brown
  - b. Windows: Oil-rubbed brown aluminum
  - c. Roofing: Shop-run standing seam metal
7. Prior to issuance of the building permit 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:
    - Construction delivery routes approved by the Department of Public Works.
    - Construction schedule (deliveries, worker hours, etc.)

- Notification to area residents
- 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).

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 shall be designed by the architect certified to design such plans in the state of California. Plans and calculations of the foundation elements shall be stamped and signed by the project engineer and submitted to the satisfaction of the Town Engineer or Building Permit Plan Checker.

e. The grading and drainage elements shall also be stamped and signed by the project architect.

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.

8. 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.

9. The project architect shall field check the completed project prior to issuance of the occupancy and submit written certification to the Town Staff that the foundation, grading and drainage elements have been installed in conformance with the approved building plans.

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 # 21-10 or the approval of the Planning Director of minor changes that do not modify the intent of this approval. Any construction based on job plans that have been altered without the benefit of an approved modification by the Planning Commission or the Planning Director of Application 21-10 will result in the job being immediately stopped and red tagged.
12. Any damages to the public portions of Cascade Drive or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
13. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, 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. The applicant must comply with all conditions imposed by an outside agency unless that agency waives its conditions in a written letter to the Department of Planning and Building Services Department prior to issuance of the building permit.



16. All exterior lighting shall be of “dark sky” fixtures and direct the light downward. The fixture cut sheets shall be included in the building permit submittal and be subject to Planning Staff approval prior to issuance of the building permit.

**Ross Valley Fire Department**

17. 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.

18. A Vegetation Management Plan designed in accordance with the Ross Valley Fire Standard 220 is required, and has to receive Fire approval prior the issuance of a Building Permit.

19. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.

20. Carbon monoxide alarms shall be provided, located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.

21. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in location that is visible from the street. The numbers must be internally illuminated or illuminated by and adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.

22. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

23. A fire sprinkler system shall be installed throughout the entire building which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system with plans and specifications for the system submitted to the Ross Valley Fire Department by an individual or firm licensed to design-build sprinkler systems.

24. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.

**Marin Municipal Water District**

25. The project shall comply with all requirements of District Code 13 – Water Conservation.

- 26. Indoor plumbing fixtures must meet specific efficiency requirements.
- 27. Backflow protection shall be installed as a condition of water service.
- 28. The project shall comply with Ordinance No. 429 regarding a gray water system.

**Other outside agency requirements**

- 29. 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 Design Review Permit and Use 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 with the required modifications 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 20th day of May, 2021 by the following vote:

- AYES:
- NOES:
- ABSTAIN:

\_\_\_\_\_  
Chair Michele Rodriguez

Attest:

\_\_\_\_\_  
Ben Berto, Director of Planning and Building Services