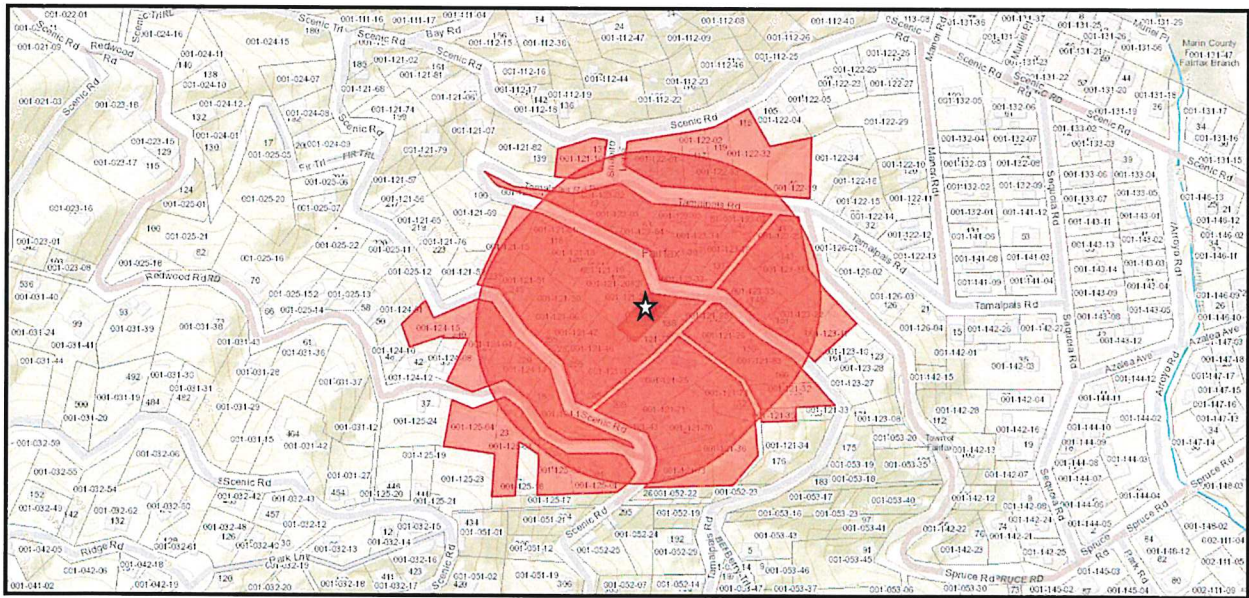


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Planning Commission
DATE: May 26, 2022
FROM: Linda Neal, Principal Planner
LOCATION: 136 Tamalpais Rd.; APN # 001-121-22
ZONING: Residential Single-family RS 6
PROJECT: Garage/storage addition
ACTION: Hill Area Residential Development, Tree Removal, Encroachment and Excavation permits and Front-yard and Minimum Side and Combined Side-yard Setback Variances; Application # 22-09
APPLICANT: Laura Kehrlein, Architect
OWNER: Robin Hubinsky
CEQA STATUS: Categorically exempt, § 15301(e)



136 TAMALPAIS ROAD

RECOMMENDATION

Move to approve application # 22-09 by adopting attached resolution No. 2022-13 setting forth the findings and conditions for the project approval.

PROJECT DESCRIPTION

The project encompasses construction of a 413 square-foot, 2-car garage with a second story, 168 square-foot storage loft (attic) addition to an existing 1,142 square-foot, two bedroom, one and a half bathroom, single-family residence. The site has one parking space along the frontage that is located almost entirely within the Tamalpais Road right-of-way.

BACKGROUND

The 5,560 square-foot property slopes up from Tamalpais Road at an average rate of 39% and is developed with a residence constructed in 1918. The original residence has remained largely unchanged since its original construction except for maintenance repairs and the construction of a deck addition to the house in 1971. The oldest microfiche plans for the house in the Town's files, were stamped with the Town building permit approval stamp, but were not signed or dated by any Town personnel and do not have any permit number. These plans show the two loft areas accessed by ladders but do not label them for use as sleeping lofts. Marin County Tax Assessor's records that are based on physical inspections that typically took place in 1947-48 for residential properties throughout Fairfax, indicate that the inspectors deemed the property developed with a two bedroom one-and-a-half-bathroom residence.

In 1986 there was a landslide on the property which originated from the properties above the site at 265 and 295 Scenic Road that came down an existing swale that crosses over a portion of the property running south to north and ending at the existing filled in patio where the garage is proposed. Two timber retaining walls were built on the properties above, as recommended by John Hom in a report titled "Report, Geotechnical Investigation, Landslide, 259 and 265 Scenic Avenue, Fairfax California". These lower of these walls extends a few feet above grade and forma a small debris basin that can intercept potential debris-flows that might originate in the future from above the site (Attachment B – page 3, paragraph 6, DAC Supplemental Geotechnical Evaluation).

DISCUSSION

The project complies with the regulations for the Residential RS 6 Zone District where the property is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft., 3 stories
Existing	8 ft.	63 ft.	71 ft.	0 ft. & 25 ft.	25 ft.	.21	.28	28.5 ft, 2 stories
Proposed	0 ft.	No change	63 ft.	0 ft. & 1 inch	1 inch	.24	.31	No change

Town code § 17.072.020 lists the criteria used to determine if a project requires the approval of a Hill Area Residential Development (HRD) permit. This project meets two of the criteria for being subject to the HRD permit process as follows:

- Town Code §17.072.020(A)(4) requires that an HRD permit be obtained for any project on a site with over a 31% slope that will require excavation or fill of 30 cubic yards or more of material.
- Town code §17.072.020(B) indicates that a project requires an HRD permit if the site falls within a landslide hazard zone (Interpretation of the Relative Stability of Upland Slopes in the Upper Ross Valley and Western Part of San Rafael Area, Marin County California, by Salem, Smith, and Strand, 1976).

The structure will also be located within the required six-foot front-yard setback, the minimum five-foot side-yard setback and the combined twenty foot side-yard setback so the project will require a Setback Variance.

The site sloped up steeply from Tamalpais Road construction of the project will require the excavation of two hundred and thirty-four cubic yards of material and one cubic yard of fill. Therefore, the project will also require the approval of an excavation permit by the Planning Commission per Town Code § 12.20.080 which requires Planning Commission approval of excavation permits to move over one hundred cubic yards of material.

A thirteen-foot-long section of the driveway/garage eastern retaining wall will encroach approximately five feet into an undeveloped portion of the Tamalpais Road right-of-way. Per Town Code § 12.32.010, the Planning Commission must grant an encroachment permit for this portion of the parking structure that extends into the public right-of-way.

HILL AREA RESIDENTIAL DEVELOPMENT, ENCROACHMENT AND EXCAVATION PERMITS

Hill Area Residential Development

The purpose of the HRD permit is to encourage maximum retention of natural topographic features such as drainage ways, streams, slopes, ridgelines, rock outcroppings, vistas and natural plant formations and trees, to minimize grading of

hillside areas, provide safe ingress and egress for vehicular and pedestrian traffic, minimize water run-off and soil erosion during and after construction, prevent loss of life, minimize the potential of injuries, property damage and economic dislocations from geologic hazards, and to ensure that infill development on hillsides sites is of a size and scale appropriate to the property and consistent with other properties in the vicinity under the same zone classification [Town Code sections 17.072.010(B)(1) through (6)].

Excavation Permit

The criteria set forth in the code for reviewing excavation permits shares many aspects of the purpose of the HRD ordinance as follows: eliminating projects that would unlawfully remove the lateral or subjacent support of the adjacent land, result in dangerous topographic conditions, cause seepage or slides, inappropriately divert the flow of drainage waters, create a nuisance, or otherwise endanger the health, safety or property of any other person, despite all precautions which the applicant might be ready, willing and able to take [Town Code § 12.20.060(B)(1) through (6)].

The garage has been proposed with approximately a four-inch setback from the front property line at its northwest corner and the front property line runs at an angle past the proposed garage face and face of the existing residence. The front entry stairway will be relocated along the west side of the garage and access both the storage/attic loft (second story) over the garage and the entry to the first floor of the existing house which contains the laundry/utility room and is not internally connected with the upper floor of the residence. The garage and existing house will abut each other for approximately eighteen feet and for that reason, staff is considering the two structures as attached. A second stairway will lead from the garage roof deck to the main entry to the house on the second floor.

Locating the garage at the front of the site minimizes the site excavation/fill and site disturbance which are two of the purposes of the Hill Area Residential Development Ordinance. Excavating further into the hillside to create a garage that complies with the required six-foot front setback requirement would increase excavation and disturb more of the site.

The 1/2/22 report by DAC, page 4, paragraphs four and five include required parameters for the garage retaining wall construction. Staff has included in the conditions of approval for the project that all the recommendations contained in the 1/2/22 DAC Engineering report shall be conditions of the project approval with their inclusion in the project building permit plans to be verified by the project Geotechnical Engineers either by their signing and stamping the applicable civil engineering plan pages or in a signed stamped written communication verifying compliance with their recommendations.

Drainage

There is an existing subgrade, drainage system that runs from the properties at 265 and 295 Scenic road above the project site, down the site and through the proposed garage construction area, to Tamalpais road where it branches with some of the run-off water

dispersed into the earthen swale on the west side of the developed Tamalpais roadbed and the rest directed to an existing drain inlet on the east side of the existing parking space for the site, within the Tamalpais Road right-of-way. The project proposes abandoning the existing drainage system that exists within the project area and constructing a new subgrade drainage collection system by running a pipe along the west side of the garage structure beneath the new access stairway with a new drop inlet to collect hillside runoff above the garage/garage roof deck and a second drop inlet within the right-of-way on the west side of the driveway.

The project engineering report also indicates that run-off collected from the new garage roof drains and water directed away from the garage foundation by sloping the ground surface away from the structure and other surface run-off from the project should not be directed into the relocated subdrain system but shall be dispersed on the site in such a way that protects the natural slope from erosion.

The Town Engineer has reviewed the following plans and documents pertaining to the proposed construction:

- The geotechnical report by John Hom & Associates dated 3/9/18
- Supplemental Geotechnical Report by Frank Groffie, Geologist and Daryoush Darius Abolhassani, Geotechnical Engineer, DAC Associates, Inc. dated 1/12/22
- Title Report dated 9/14/21
- Architectural plans by Laura Kehrlein, Frederic C. Divine Associated received by the town on 7/1/21.
- Engineering plans by Oberkamper and Associates Civil Engineers Inc., received 7/1/21

After performing a site inspection and reviewing the above reports and plans, the Town Engineers have determined that the applicants have provided adequate information for them to determine the site can be developed without geologic, hydrologic, or seismic hazards.

Encroachment

Parking for the site cannot be constructed without some portion of the structure extending into the right-of-way to retain the steep cut into the hillside required on the east side of the garage to provide access to the parking structure. Thirteen feet of the garage eastern retaining wall must encroach five feet into the undeveloped and unused portion of the Tamalpais Road right-of-way to create on-site parking for 163 Tamalpais Road.

HRD, Encroachment and Excavation Permit Findings and Conditions

The findings for approval of the Hill Area Residential Development, Excavation and Encroachment Permits are contained in Attachment A – Resolution No. 2022-13 which also contained the conditions of approval for the project.

SETBACK VARIANCES

The site is approximately fifty-feet wide, and the existing residential structure is located at the front of the site, approximately eight feet south of the front property line and fourteen feet from the edge of Tamalpais Road. There is not adequate room for parking to be located on the private property between the house and the edge roadway easement (front property line). Alternatively, trying to create parking underneath the existing house while maintaining the integrity of the existing foundation would be very difficult and expensive presenting possibly insurmountable challenges. Therefore, the garage/storage structure and entry stairway have been located west of the house maintaining a minimum side yard setback of approximately one inch and a combined side-yard setback of approximately one inch.

Due to the angular trajectory of the front property line in relation to the existing house and proposed garage site, forty-five square feet of the northwestern corner of the garage and relocated entry stairway will be constructed within the required six-foot front-yard setback and approximately one inch from the western side property line.

The only location for the proposed garage and relocated front access stairway is west of the house, projecting into the required minimum five-foot and combined twenty-foot, side-yard setbacks and the six-foot front yard setback.

Due to the close proximity of the improvements to the front and side property lines the Building Official has placed the following conditions on the project which have been included in the attached Resolution No. 2022-13:

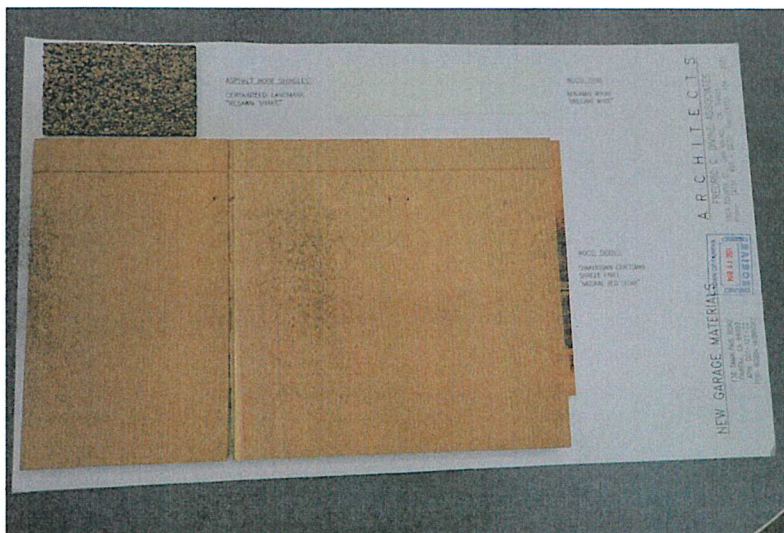
1. Prior to the start of construction, the surveyor shall mark the western side property line and the front property line in the field and shall meet the Building Official for a preconstruction inspection once the markings are in place.
2. After the foundation framing and prior to the foundation concrete pour, the contractor shall call for a second inspection by the Building Official to ensure that the proposed setbacks are being maintained.
3. If it is determined by the contractor and verified by the Building Official (with input from the Town Engineer if necessary) that the approximately one inch side-yard setback cannot be maintained and/or the garage must project over the side property line one to five inches, a revised Mutual Encroachment Easement (Attachment D) shall be negotiated, drafted and recorded, after being approved by the Building Official/Town Engineer, with a copy provided to the Town before construction continues.

DESIGN REVIEW PERMIT

Town Code § 17.072.070 requires that projects requiring a HRD permit also require the approval of a Design Review Permit by the Planning Commission.

In reviewing a design review application the Commission must find that the project complies with the Design Review Criteria contained in Town Code §17.20.040, including but not limited to: The proposed development shall create a well composed design, harmoniously related to other facilities in the immediate area, the proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area, there shall exist sufficient variety in the design of the structures and grounds to avoid monotony in external appearance, 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 with balance and unity among its external features, the extent to which the structure conforms to the general character of other structures in vicinity insofar as the character can be ascertained and is found to be architecturally desirable, and, the accessibility of off-street parking areas and the relation of parking areas with respect to traffic on adjacent streets.

The exterior siding of the garage/storage structure will be wood, Shakertown Craftsman Shingle Panel in "Natural Red Cedar", the roof will be asphalt shingles in a brown color, Certainteed Landmark "Resawn Shake", and the window trim will be white (Benjamin Moore "Brilliant White"). The garage door will contain windows and the upper attic level includes a dormer window in the storage room which helps articulate the exterior of the structure along with the rest of the roof which slopes up from the street following the contour of the hillside. The garage retaining wall that extends out to the street will be concrete. The Commission can discuss whether they want to require this concrete wall to be textured or colored in some manner to complement the wooded hillside surrounding the property or whether concrete grey is appropriate due to the limited thirteen-foot length and six-and-a-half-foot maximum height of the visible portions. If the Commission determines the visible portions of the wall do not need to be treated in some fashion to minimize its height and appearance from the street, you will need to remove the standard condition # 8 from attached Resolution No. 2022-13.



One exterior light is proposed at the front of the garage which the architect has noted will be dark sky compliant. Staff has included the standard condition relating to dark sky compliance required by the Town of Fairfax as a condition of approval and is also requiring that the light fixture chosen for the front of the garage shall be subject to approval by the Planning Department prior to submittal of the project building permit.

The project will result in a structure which is similar in size and has a floor area ratio similar to those of the homes in the surrounding neighborhood on similar sized properties (see table below).

136 TAMALPAIS RD., APN# 001-121-22. COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
001-121-19	124 Tamalpais	3450	1912	2	1	0	.55
001-121-20	128 Tamalpais	6000	960	2	1	0	.16
001-121-21	132 Tamalpais	5500	2248	3	2.5	483	.41
001-121-25	142 Tamalpais	4500	1041	2	1	0	.23
001-121-32	164 Tamalpais	6750	1028	1	1	0	.15
001-123-04	63 Tamalpais	5400	1499	2	2	0	.28
001-123-08	171 Tamalpais	7150	624	1	1	176	.09
001-123-10	161 Tamalpais	5400	1941	3	2	0	.36
001-123-11	153 Tamalpais	5750	1180	2	2	0	.21
001-123-30	133 Tamalpais	6400	1424	2	2	0	.22
PROJECT SITE							
001-121-22	136 Tamalpais	5560	1310	2	2	413	.24

The finding for approval of the Design Review Permit along with the conditions of the project approval are contained in the attached Resolution No. 2022-13.

TREE REMOVAL PERMIT

Three trees, a Live Oak with a thirty-one-inch circumference and two, Bays with fifteen-inch circumferences, need to be removed to facilitate the construction of the garage/storage structure due to their close proximity to the garage retaining wall. The Fairfax Tree Committee reviewed the tree removal application and have recommended the Commission grant the tree removal permits with no special conditions.

The findings for approval of the tree removal permit and the standard conditions of approval are contained in Attachment A, Resolution No. 2022-13 (Attachment E).

Other Agency/Department Specific Project Comments/Conditions of Approval.

Ross Valley Fire Department (RVFD)

The Ross Valley Fire Department (RVFD) has reviewed the project and placed the following conditions upon the project in addition to the standard conditions which are included in the attached Resolution No. 2022-13; the site 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, all vegetation and construction materials are to be maintained away from the residence during construction, hydrant flow and location are to be identified before construction begins, and a fire sprinkler system shall be installed throughout the entire building in compliance with the requirements of the National Fire Protection Association 13-D and local standards (plans must be submitted to the fire department and be approved prior to issuance of the building permit).

No comments or conditions were received from the Ross Valley Sanitary District, Marin Municipal Water District or the Fairfax Police and Public Works Departments.

ATTACHMENTS

Attachment A – Resolution No. 2022-13

Attachment B – Project Engineering reports dated 1/12/22 and 3/9/18

Attachment C – Town Engineer's final project memorandum

Attachment D – Mutual Encroachment Easement

Attachment E – Letter of Tree Committee action and arborist report

RESOLUTION NO. 2022-13

A Resolution of The Fairfax Planning Commission Approving Application No. 22-09 for a Hill Area Residential Development (HRD), Design Review, Excavation, Encroachment and Tree Removal Permits and Minimum Front-yard, Minimum Side-yard and Combined Side Yard Setback Variances for the Construction of a Garage/Storage Addition to 136 Tamalpais Road

WHEREAS, the Town of Fairfax received an application from Robin Hubinsky to construct a of a 413 square-foot, 2-car garage with a second story, 168 square-foot storage loft (attic) addition to an existing 1,142 square-foot, two bedroom, one and a half bathroom, single-family residence on 3/1/21; and

WHEREAS, after holding a duly noticed public hearing on May 26, 2022, on the project plans; and

WHEREAS, after holding the public hearing on the project the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance and the Design Review Ordinance and that findings can be made to grant the requested HRD, Design Review, Excavation, Encroachment and Tree Removal permits and Minimum Front-yard, Minimum Side-yard and Combined Side Yard setback variances at 136 Tamalpais Road; Tree Removal Permit; and

WHEREAS, the Commission has made the following findings:

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

Policy LU-1.2.3: New and renewed development shall be designed and located to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.

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 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.

Hill Area Residential Development (Town Code § 17.072.110)

1. The proposed development is consistent with the General Plan (see above) and consistent with the purpose and intent of the Zoning Ordinance, Title 17, of the Fairfax Town Code.
2. The site planning preserves identified natural features as much as possible while also bringing the property more into conformance with the Town parking regulations, providing two on-site parking spaces.
3. Based on the soils report findings, the site can be developed without geologic, hydrologic, or seismic hazards;
4. Vehicular access and parking are adequate.
5. The proposed development harmonizes with the surrounding residential development, meets the design review criteria, and does not result in the deterioration of significant view corridors.

Excavation Permit (Town Code § 12.20.080)

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

1. The health safety and welfare of the public will not be adversely affected;
2. Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
3. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
4. 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;
5. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
6. Natural landscaping will not be removed by the project more than is necessary; and
7. 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 (Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year).

Encroachment Permit (Town Code §12.32.010)

The portion of the garage (one wing retaining wall) that projects into the Tamalpais Road right-of-way will not use or obstruct any developed section of the road and the area is not currently being used by the public.

Design Review (Town Code § 17.020.040)

1. The project depicted in the plans submitted to the Town on 7/1/21 complies with the Design Review Criteria set forth in Town Code § 17.020.040.

Minimum Front-yard, Minimum Side-yard, and Combined Side-Yard Setback Variance (Town Code § 17.028.070)

1. The steep, 39% slope of the site and the close proximity of the existing residence to the streets, are the site features that warrant granting the requested Minimum Front-yard, Minimum Side-yard and Combined Side Yard Setback Variances to construct the two car garage which will provide much needed parking on the site. The strict enforcement of the required setback backs would deprive the applicant of the ability to improve the on-site parking and to get two cars off the street, a privilege enjoyed by other property owners in the vicinity and under identical zone classification (RS 6).
2. There are other properties in the vicinity with parking located within the required minimum front set-back and the minimum and combined side-yard setbacks. On uphill sloping properties throughout the Town in which the developed roadways often are not constructed to the full width of the right-of-way, it is common for the Commission to have to grant exceptions to the setback regulations in order for parking structures to be built. Therefore, the granting of this variance will not be a grant of special privilege.
3. The strict application of the setback regulations would result in unreasonable hardship for the applicants because they would be unable to bring the more into compliance with the Town parking regulations and to provide parking for the residents of this two bedroom residence.
4. The proposed parking garage will maintain a greater side yard setback than the garage of the property west of the site at 132 Tamalpais Road. Both the proposed garage and the existing 132 Tamalpais Road garage have less than the minimum required front yard setback and side yard setbacks, The structures are located side-by-side on the outside of a curve in Tamalpais Road and are setback back a substantial distance from the edge of the travel path where they do not obstruct driver visibility. Therefore, the granting of the variance will not be

detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

Tree Removal

The one Oak and two Bays approved for removal have been reviewed by the Tree Committee who has recommended that the Commission approve the requested removal permit. Therefore, the project is in compliance with all the considerations listed in Town Code 8.36.060(B)(1 through 7) of the Tree Ordinance, Town Code Chapter 8.36.

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

The project is approved based on the following plans and reports:

The geotechnical report by John Hom & Associates dated 3/9/18, Supplemental Geotechnical Report by Frank Groffie, Geologist and Daryoush Darius Abolhassani, Geotechnical Engineer, DAC Associates, Inc. dated 1/12/22, Title Report dated 9/14/21, Architectural plans by Laura Kehrlein, Frederic C. Divine Associated received by the town on 7/1/21 and Engineering plans by Oberkamper and Associates Civil Engineers Inc., received 7/1/21.

The project is subject to the following conditions of approval:

1. Prior to issuance of any of the building permits for the project the applicant or his assigns shall:
 - a) Submit an amended construction plan to the Public Works Department for their approval. The amended plan shall 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
 - V. Construction worker staging area
2. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the public construction delivery routes (routes to be pre-approved by Public Works Director).
3. 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 plan 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.

4. 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.
5. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the project geotechnical engineer as conforming to the recommendations made by the project Geotechnical Engineer.
6. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their recommendations.
7. Submit 3 copies of the recorded record of survey with the building permit plans.
8. All retaining walls that are visible from the street and are constructed of concrete shall be heavily textured or colorized in a manner approved by the planning staff prior to issuance of the building permit. This condition is intended to mitigate the visual impact of the proposed walls.
9. 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. The approved tree permit must be kept on the job site and the applicant must verify that the tree company performing the approved tree work has a current Fairfax Business License.
10. 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 an ISA certified arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams.
11. 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 the 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 the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
- c) The Building Official shall field check the concrete forms prior to the pour.
- d) All construction-related vehicles including equipment delivery, cement trucks and construction materials shall always be situated off the travel lane of the adjacent public right(s)-of-way. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
- e) Any proposed temporary closures of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

12. Prior to issuance of an occupancy permit the following shall be completed:

- a) The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report. Additionally, the project engineer shall review the construction schedule and plans at each phase of the project construction to determine the best order for each phase to occur including the hillside retention/drainage phases.
- b) The Planning Department and Town Engineer shall field check the completed project to verify that all and planning commission conditions and required engineering improvements have been complied including installation of landscaping and irrigation prior to issuance of the certificate of occupancy. The Planning Department and the Town Engineer shall also review the construction schedule and plans at each phase of the project construction to determine the best order for each phase to occur including the hillside retention/drainage phases.

13. 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.

14. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them, daily, if necessary.
15. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 22-09. 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 22-09 will result in the job being immediately stopped and red tagged.
16. Any damages to the public portions of Tamalpais Road, Scenic Road, Azalea Avenue, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
17. 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 or 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.
18. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act and Best Management Practices for Stormwater Pollution Prevention.

19. Conditions placed upon the project by outside agencies, Town department or by the Town Engineer may be eliminated or amended with that agencies, department's, or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
20. 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 structure for compliance with the engineering plans.

Town Engineer

21. All the recommendations contained in the 1/2/22 DAC Engineering report shall be conditions of the project approval with their inclusion in the project building permit plans to be verified by the project Geotechnical Engineers either by their signing and stamping the applicable civil engineering plan pages or in a signed stamped written communication verifying compliance with their recommendations.

Ross Valley Fire Department

22. All vegetation and construction materials are to be maintained away from the residence during construction.
23. Hydrant flow and location are to be identified before construction begins.
24. The project requires installation of a fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
25. 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.
26. 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.
27. 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.

28. 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 an adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
29. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
30. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

Marin Municipal Water District (MMWD)

31. A copy of the building permit must be provided to the district along with the required applications and fees.
32. The foundation must be completed within 120 days of the date of application.
33. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
34. Any landscaping plans must be reviewed and approved by the District.
35. Backflow prevention requirements must be met.
36. 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.
37. All the District's rules and regulations in effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

38. A sewer connection permit and a side sewer connection permit are required for all work outside the new building footprint.
39. Fees will include sewer capacity charges as well as permit fees.
40. Test the sewer lateral(s) from the outer face of the building to the connection at the existing sewer main, in accordance with RVSD Ordinance 100 and Standards.

41. Include a sewer cleanout and backwater protection device within 2-feet of the building foundation, the Ross Valley Sanitary Standard Notes shall be shown and are found in Subsection L of Section 3 of the Design and Construction Standards and demonstrate that all materials used in the construction of the sewer improvements are from the approved materials list.
42. A hold will be placed on the property when the building permit is issued and will not be released for occupancy until the District permit and sewer requirements have been fulfilled.
43. A Certificate of Compliance for the lateral must be obtained from the RVSD prior to the project final inspection by the Fairfax Building Department.

Fairfax Public Works Department

44. All large trucks with more than 2 axles accessing the site for construction will be limited daily to the hours between 9 AM to 3 PM.
45. Complete road closures will be limited to concrete pours and steel placement and will be coordinated with the Fairfax Police Department and Ross Valley Fire Department.
46. A detailed construction management plan must be submitted with the building permit application that includes construction delivery routes, construction schedule (deliveries, worker hours, etc.), notification to area residents, emergency access and egress routes and proposed employee parking locations during construction and be approved by the Department of Public Works.
47. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes.
48. A bond will be submitted prior to issuance of the building permit in an amount that will cover the cost of grading, weatherization, and repair of possible roadway damage in an amount equaling 100% of the estimated construction costs and pay for the Town Engineer's/Plan Checker's time to review and confirm the contractor's estimate.
49. The second driveway and proposed additional parking space plan configuration shall be revised to keep the required additional parking space out of the right-of-way and shall be submitted with the building permit plans for approval by the Planning Department prior to issuance of the building permit.
50. A four-foot-wide sidewalk shall be installed along the entire property frontage as part of the project.

51. The parking, driveway, drainage improvements shall be completed at 136 Tamalpais Road and shall be inspected and approved by the Building Official/Public Works Director prior to the project final inspection.

Building Official

52. Prior to the start of construction the surveyor shall mark the western side property line and the front property line in the field and shall meet the Building Official for a preconstruction inspection once the markings are in place.
53. After the foundation framing and prior to the foundation concrete pour, the contractor shall call for a second inspection by the Building Official to ensure that the proposed setbacks are being maintained.
54. If it is determined by the contractor and verified by the Building Official (with input from the Town Engineer if necessary) that the approximately one inch side-yard setback cannot be maintained and/or the garage must project over the side property line one to five inches, a revised Mutual Encroachment Easement (Attachment D) shall be negotiated, drafted and recorded, after being approved by the Building Official/Town Engineer, with a copy provided to the Town before construction continues.

Town Engineer

55. The Town Engineer shall review the final, stamped, and signed project Civil and Structural plans and the project Civil Engineer shall provide a letter certifying that the site grading and drainage improvements have been installed per the site "drainage" plan designed by ILS Associates, Inc. dated 11/10/21 prior to the project final inspection.
56. The design shall allow a soil inclination throughout the project of 150/80 (approximately 2:1). If any steeper soil inclination is designed into the project, it will need shoring structural design that must be reviewed and approved by the project engineer and the Town Engineer prior to issuance of the building permit.
57. The native top soil at the top of any cut may need to be excavated to a depth of approximately one to two feet (to be determined by the project engineer during construction and an inspection of the cuts with the excavated top soil material hauled off site or filled on site on the south side of the addition/existing residence as depicted on the landscaping plan, plan page L-1).
58. The soils report Section 5.3.3, last sentence of the first paragraph in this section (page 9 of the 4/18/21 initial geotechnical report), describing the recommended proposed Mat foundation shall be amended as follows prior to issuance of the project building permit:

"The membrane must be a minimum of 12 mils similar to Stego Industries membranes underlain by a select granular fill for capillary break consisting of ¾ inch drain rock compacted to at least ninety percent relative compaction as determined by ASTM Test Designation D1557-78".

59. Soils report section 5.4 Retaining Walls, 4/18/21 initial geotechnical report, page 12, end of the first paragraph walls will amended to delete, "...and/or be designed for the lateral pressure generated from the 95% relative compaction needed for the driveway and based on ASTM TD D-1557."

The final site drainage system design should be designed on the basis of hydrologic analysis considering the effects of a 100-year storm and which results in a post-project offsite flow rate less than or equal to current site run-off conditions and that the system be subject to review and approval by the Town Engineer prior to issuance of the project building permit.

A detailed site drainage plan shall be submitted that is designed on the basis of hydraulic analysis considering at a minimum the effects of a 100-year storm, and which result in a post project peak off-site flow of less than or equal to current conditions. The calculations and detailed drainage plan shall be reviewed and approved by the Town Engineer prior to issuance of the building permit.

The roof and foundation drain lines proposed along the northern and southern side property lines shall be located to avoid negatively impacting the Black Oak at the southwest corner of the house and the Black Oak and Plum Trees located at the northeast corner of the property. If this is not possible, the project arborist shall provide written recommendations for how the construction shall occur in close proximity to these trees which shall include his being present when the excavation for the lines is occurring and providing a letter to the Town describing how the construction has avoided negatively impacting the trees prior to the project final inspection.

Miscellaneous

60. A drainage system maintenance agreement including a system location plan and required maintenance schedule shall be approved by the Town Engineer and then be recorded at the Marin County Recorder's Office setting forth the required maintenance schedule to ensure the drainage system continues to function as designed. A copy shall be provided to the Town prior to issuance of the building permit.
61. All the exterior fixtures must be dark sky compliant (fully shielded and emit no light above the horizontal plane with no sag or drop lenses, side light panels or uplight panels) as well as compliance with color temperature to minimize blue rich lighting. The lighting plan shall be submitted with the building permit application and be approved by the Planning Department prior to issuance of the project building permit. The lighting shall not emit direct offsite illumination and shall be the minimum necessary for safety. The fixture to be mounted on

the garage front wall must be reviewed and approved by the Planning Department prior to submittal 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 Hill Area Residential Development, Design Review Tree Removal permits and Combined Side-yard Setback Variance to allow parking in the required side-yard setback are approved and the findings have been made to grant the requested discretionary permits. Therefore, the project is 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 26th day of May 2022 by the following vote:

AYES:
NOES:
ABSENT:

Chair Norma Fragoso

Attest:

Linda Neal, Principal Planner