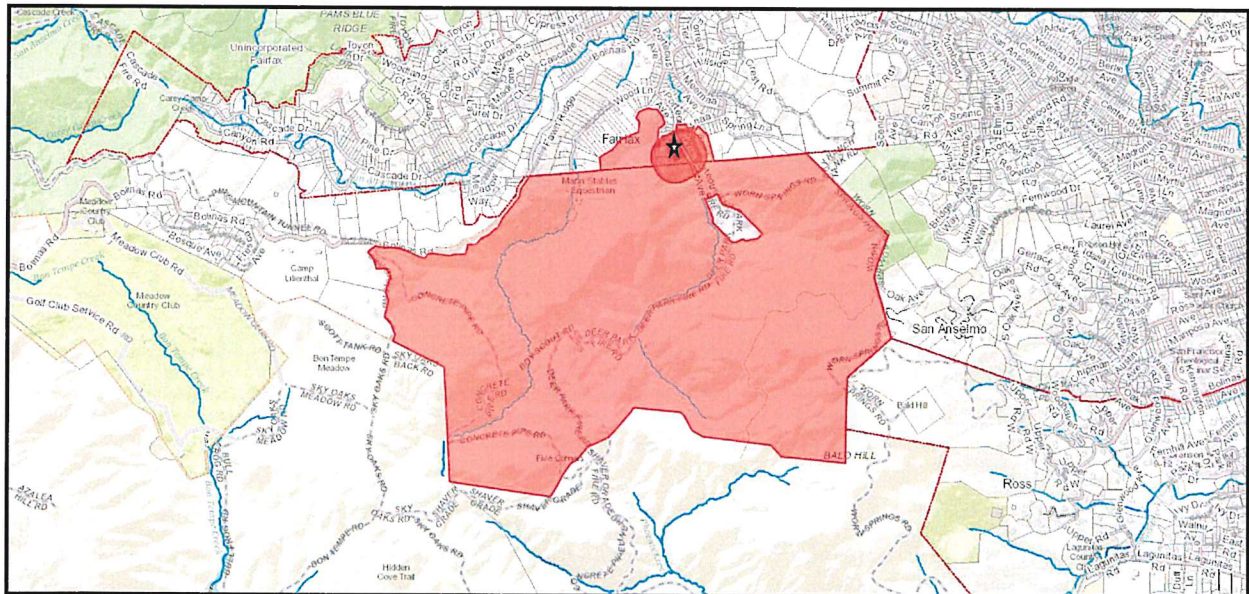


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: May 26, 2022
FROM: Linda Neal, Principal Planner
LOCATION: 152 Porteous Ave.; APN # 002-071-09
ZONING: Residential Single-family RS 6 Zone
PROJECT: Addition to a single-family residence
ACTION: Hill Area Residential Development, Design Review and Tree Removal Permits and a Parking Variance; Application # 22-10
APPLICANT: Peter Brown
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(e)



152 PORTEOUS AVENUE

RECOMMENDATION

Move to approve application # 22-10 by adopting the attached Resolution No. 2022-14 setting for the findings and the conditions for the project approval.

DESCRIPTION

The project encompasses demolition of approximately 112 square-feet of the existing residence that currently includes a laundry room and full bathroom for the 714 square-foot one bedroom cottage. The remaining portion of the residence will be remodeled into an open living space providing a kitchen, living room, dining room and entryway.

The two-story addition will be constructed on the west side of remaining portion of the original house, as a split level accessed up several stairs. The new portion of the structure includes the bedroom and bathroom and stairway access to the second story 119 square-foot loft that be used as a workspace or small den. The project will increase the living space square footage from 714 square feet to 1,011 square-feet but will not increase the number of bedrooms or bathrooms.

A new access stairway will be constructed along the south side of the structure to access the relocated front entryway (existing entry is at the front north corner of the residence).

There are three existing retaining walls at the front of the site with two of the walls located between the existing structure and the garage/ADU building. The third wall, closest to the front property line, starts at roughly the middle of the garage/ADU and runs north, and is proposed for reconstruction as part of the project.

The applicant is also proposing a second driveway that will access the third parking space required for the project per Town Code § 17.052.030(A)(1)(b) and (A)(2).

See Attachment D for the applicant's supplemental information.

BACKGROUND

The 10,062 square-foot 67-foot-wide site slopes up from Porteous Avenue at an average rate of 46%. The site is developed with an existing one car garage with a second story, 376 square foot accessory studio dwelling unit (ADU) and a 714 square-foot, one bedroom, one bathroom residence both built in 1948.

On May 16, 2021, the owner submitted a building permit application to construct an approximately 560 square foot addition to the existing residence which the staff determined would require the approval of discretionary permits by the Planning Commission.

DISCUSSION

On July 8, 2021, the applicant submitted a Conditional Use Permit application to the Department of Planning and Building Services. An initial review of the plans indicated the project would require the approval of Hill Area Residential Development and Design Review Permits because the proposed work constituted a fifty percent remodel and project site is located in a "Mostly landslides" hazard zone in the Fairfax General Plan, Map S3, Areas Susceptible to Landslides [Town Code §§17.072.020(B)] and 17.072.050(A)].

Projects constituting 50% remodels require a Design Review permit per Town Code § 17.020.030(A) and either the granting of a Parking Variance or the provision of required parking per Town Code § 17.016.040(B)(A) and (C)(2)(a). A third parking stall is proposed in a second driveway being proposed with the new driveway located partially within the combined side-yard setback and partially within the Porteous Avenue right-of-way.

The project will also require the approval of a Tree Removal permit in accordance with Town Code §§ 8.036.020, Definition of Tree, and 8.36.040(A) to remove the one Live Oak Tree at the west side of the addition where the rear retaining wall will be built.

Hill Area Residential Development Permit

Construction will require leveling a portion of the hillside behind the house by removing three trees, excavating into the hillside, and constructing a six-foot-tall retaining wall. The excavated material will be relocated to the south side of the structure to create a level landscaped area. The project will not result in any off haul of material from the site. Since the total amount of proposed excavation and fill is 26 cubic yards (13 cubic yards of excavation and 13 cubic yards of fill), the project does not require the approval of an excavation permit by the Planning Commission [Town Code § 12.20.080A)]. The excavation and fill have already occurred because the owners were unaware that excavation requires the issuance of an excavation permit by the Building Official for amounts less than one hundred cubic yards. The excavation/fill was stopped after the Building Official and Principal Planner inspected the site prior to issuance of the building permit that was applied for on May 16, 2021. Since the required planning permits being discussed tonight are required prior to issuance of the building permit, the building permit has not been issued.

The required findings for a Hill Area Residential Development include the following:

The proposed development is; a) consistent with the general plan, other adopted codes and policies of the town; b) is consistent with the purpose and intent of this title; c) the site planning preserves identified natural features; d) based on the soils report finding, the site can be developed without geologic, hydrologic or seismic hazards; e) vehicular access and parking are adequate, and, d) 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.

The Town Engineer has reviewed the following information on the proposed project:

1. Project plans stamped received by the Town on 1/3/22 and the revised 11" x 17" pages received on 5/16/22.
2. 2/6/22 and 4/18/21 Geotechnical Reports by California Engineering Co. (Attachment B).
3. Weir-Andrewson Associates, architectural plan sheets A-001 through A-401 dated 11/30/21 and responses to plan check comments dated 3/8/22 (Attachment C)
4. Steven Flatland Land Surveyor, record of survey, recorded 5/17/05.

5. Benjamin P. Jordan, Physical Engineer, engineering plan sheets C1 (revised 3/7/22), sheet C2 (revised 5/13/22) and sheets C3 through C4, submitted 12/23/21.
6. Title Report dated 1/6/21.

Site Stability

The project engineer has determined, and the Town Engineer agrees, that the site is stable, and the proposed work will not create any stability hazards for the site, neighboring sites or adjacent public road improvements as long as certain conditions are designed into the project as follows:

1. 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.
2. 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).
3. 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 $\frac{3}{4}$ inch drain rock compacted to at least ninety percent relative compaction as determined by ASTM Test Designation D1557-78".

4. 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 Town Engineers have reviewed the submitted plans and reports listed above and the response to comments by the project geotechnical engineer including the geotechnical report revisions proposed by the project engineer and has determined the project can occur without creating any geologic, hydrologic or seismic hazards for the project site, neighboring properties or the adjacent Porteous Avenue as long as the following additional condition is included in the Resolution of approval for the project:

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 Town Engineer's final planning review memorandum is included as Attachment E.

Drainage

Site drainage currently sheet flowing across the site and from the existing roof downhill to Porteous Avenue. Neither the project engineer or the Town Engineer found any evidence that existing drainage is diverted to neighboring sites. The project proposed preliminary drainage system that will collect run-off from the new addition roof and direct it into a subsurface four-inch drain that will carry the increased run-off to the street. The Town Engineer has indicated the preliminary drainage system design is adequate for planning approval but that 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. This has been included in attached Resolution No. 2022-14 as a condition of project approval.

The Town Engineer was also originally concerned about the close proximity of the southern drain line to the Black Oak at the southeast corner of the existing structure. The drain line proposed location has been modified to be further away from this tree's root ball and run underneath the new front entry pad and stairway to avoid impacts (See revised page T-1 of the project plans). The northern drain line also runs very close to the Black Oak and Plum Trees located at the northeast corner of the property. This line shall also be relocated to avoid negatively impacting the trees, or 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 line is occurring and providing a letter to the Town describing how the construction has avoided negatively impacting these trees prior to the project final inspection.

Parking Variance

The proposed project relocates the existing one bedroom and bath provided in the existing one bedroom, one bathroom home to the rear addition, providing additional living space for residential structure. Therefore, the structure does not increase the number of adults the residence can accommodate. Nonetheless, the proposed addition does constitute a 50% remodel and Town Code § 17.016.040(C)(2)(a) requires that the required site parking be provided or that a parking variance be granted by the Planning Commission for these types of projects.

The applicants are proposing to create an additional parking space that would be accessed by a second driveway and would be located partially within the Porteous Avenue public roadway easement but behind the existing curb line. This is a typical

parking configuration found throughout the Porteous Avenue neighborhood for sites located on the west side of the roadway where the sites often slope up from the street after a limited level area at the front and the houses were built prior to 1973 when the current zoning ordinance was adopted. The Public Works Department will not support this parking configuration for significant remodels or new residences because the parking will be blocking the sidewalk area. The applicant can still propose a driveway approach accessing an additional parking space but that space will have to be parallel to the front retaining wall (Town Code § 17.052.040(B)(2) requires spaces parallel to a structure to be 9-feet by 22-feet). Staff has included a condition in Resolution No. 2022-14 that the parking be redesigned as described above in the project plans prior to their submittal for a building permit.

Town Code § 17.052.030(A)(1)(b) requires that one bedroom residences be provided with two parking spaces and § 17.052.030(A)(2) requires that in addition to the two required spaces, each site be provided with one guest space if there is no parking provided within the right-of-way along the property frontage leaving at least twelve feet of the developed roadway clear for the passage of emergency vehicles. Parking is allowed on the project side of Porteous Avenue and prohibited across the street on the east side of Porteous so the guest parking space is provided for this site within the public right-of-way along the property frontage.

The ADU predates adoption of the Town's parking regulations any parking requirements for the site and the proposed plan will provide an additional space for the main residence but requires a Combined Side-yard Setback Variance because the new space will project into the combined twenty-foot side yard setback required for sites with over a 10% slope. Town Code § 17.052.010(C)(2) prohibits parking from being located within the required side yard setback.

Widening the existing driveway to accommodate a third vehicle would require the removal a California Buckeye, one of the few trees located along the property frontage and would not be supported by Public Works because a space in this location would also block the sidewalk area.

The findings can be made, based on the above described existing site conditions to grant the requested variance to create a new parking space within the combined side-yard setback as long as the parking space is redesigned to keep the sidewalk and driveway clear and situated parallel to the front retaining wall, within the required combined side-yard setback.

The second driveway will require the approval of an exception to Town Code § 12.12.050 that limits residential properties to having only one driveway entrance. Town Code § 12.12.090 VARIANCES, authorizes the Town Council to grant adjustments and variances from the provisions of this chapter, provided it is shown to the satisfaction of the Town Council, and the Town Council finds that all of the following are shown to exist in the particular case:

(A) There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings or uses in the same district;

(B) The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and

(C) The granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Findings for approval of the requested Side-yard Setback Variance to allow creation of the second parking space within the required combined twenty-foot side-yard setback parallel to the Porteous Avenue right-way and front retaining wall are contained in the attached Resolution No. 2022-14 along with the condition that the parking be completed prior to the project final inspection by the Building Official.

Tree Removal Permit

Of the three trees that will have to be removed to facilitate construction, only one – a seventeen-inch Coast Live Oak, is large enough to be regulated by the Town Tree Ordinance:

"Town Code 8.36.020, Definitions, Tree, any woody perennial plant characterized by having one or more trunks, any one of which has a diameter of four inches (circumference 12 inches) or more, measured at four and one-half feet above existing lowest grade at the base of the tree". The other two trees proposed for removal are a six-inch diameter black oak (9.42-inch circumference) and a two-inch diameter Bay (6.28-inch circumference), both too small to be regulated by the Tree Ordinance.

The Fairfax Tree Committee reviewed the tree permit and recommended the seventeen inch diameter (53 inch circumference) Coast Live Oak be approved for removal by the Planning Commission (Attachment F).

Design Review Permit

Project Mass and Scale

The project complies with the regulations for the RS 6 Zone 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	9.5 ft.	69 ft.	78.5 ft.	4 ft. & 4.5 ft.	8.5 ft.	.11	.11	20 ft., 3 in., 1 story
Proposed	No change	42 ft.	51.5 ft.	No change	No change	.14	.14	20 ft. 6 in., 2 stories

The proposed main residence is similar in size and mass to other residential structures in the neighborhood (see table below).

152 PORTEOUS AVE.; APN # 002-071-09 COMPARABLE HOUSE NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
002-071-02	11 Barker	6240	1155	2	2	0	.19
002-071-03	15 Barker	30264	1073	1	1	280	.04
002-071-04	19 Barker	29854	2511	3	2	417	.08
002-071-08	150 Porteous	4950	837	2	1	0	.17
002-071-10	160 Porteous	7500	969	2	1	190	.13
002-071-11	162 Porteous	3638	1627	3	2	0	.45
002-071-12	9 Barker	5800	1568 (2 units)	4	2	0	.27
002-071-14	134 Porteous	6795	960	3	1	0	.14
002-071-15	130 Porteous	4418	1651	2	2	0	.37
002-071-16	142 Porteous	7500	1212	2	1	330	.16
002-071-17	146 Porteous	7500	2344	3	2.5	440	.31
PROJECT SITE							
002-071-09	152 Porteous	10062	1011 w/ADU- 376	1 studio	1 1	240	.10, w/ADU - .14

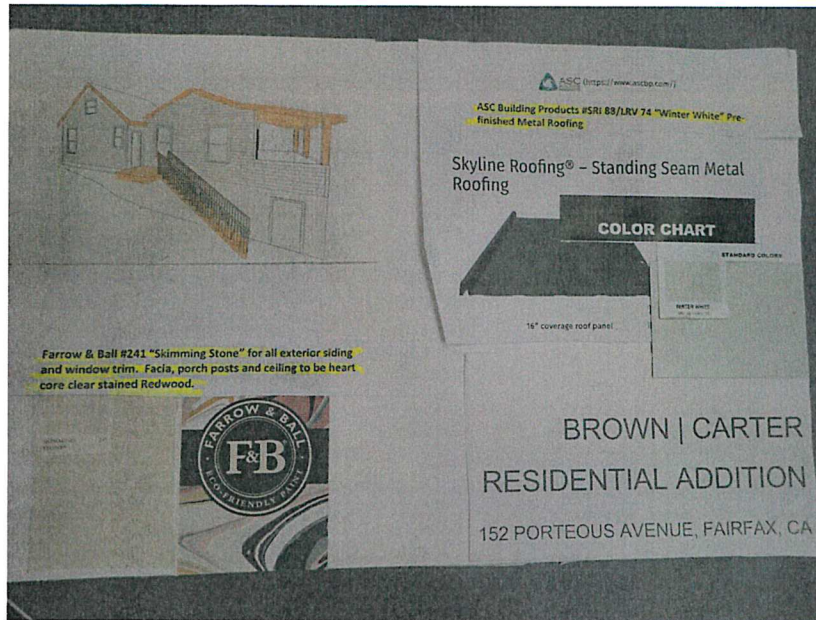
The proposed house will maintain a floor area ratio and lot coverage that is less than many of the residences in the existing neighborhood on similarly sloped parcels as it is one of the largest parcels in the immediate area and will be one of the smaller residences in the neighborhood after the project is completed. Therefore, the project results in a development that will maintain the residential character of the neighborhood and that is in scale with the project site.

The new square footage is located at the rear of the existing structure and will not be very visible from the street. The new entry stairway and railing, which will be visible, are of redwood to match the building facia

Project Colors and Materials

The sides of the addition will vertical redwood siding painted a light tan color (Farrow & Ball #241, Skimming Stone), while the facia, porch posts and porch ceiling will be heart core clear stained redwood. The roof will be metal colored an off white/grey (ASC Building Products @SRI 88/LRV 72, "Winter White". The existing structure will be painted to match the new addition as will the detached garage/ADU.

The rear of the structure will be articulated by the 12"/12" sloped roof, windows and the vertical siding which will contrast with the horizontal siding of the existing structure.



Only three new exterior lights will be installed on the expanded residence, one over the newly relocated front door, one next to the new rear door and one on the west side of the building to light the new access stairs. The fixtures will use no more than 65-watt LED bulbs and direct light downward. Attachment D contains a photograph of the proposed exterior light fixtures that will be use.

The approximately six-foot-tall retaining wall at the front of the site will be replaced with a six-foot tall, I beam and wood lagging wall with an approximately three-foot-tall wall **creating a planter bed at the base of a portion of the structure to add articulation and** help minimize the wall's visual height. This wall is set back approximately twenty-two feet from the street which also helps to minimize its visual impact on the site street view (see page A-101 and landscaping plan sheet L-1 in the reduced plan set submitted 5/16/22).

The new landscaping proposed for the site is shown on revised plan sheet L-1 received by the Town on 5/16/22 and includes the planting bed along a portion of the replaced retaining wall which will be planted with California natives, a garbage enclosure on the north side of the driveway, two planter beds on either side of the proposed public sidewalk that will run the width of the property and be planted with short to medium height plants. The area between the planting beds and the replaced retaining wall will be paved with permeable pavers planted with California native Phyla Nodiflora which tolerates foot traffic and other disturbances.

The design of the project complies with the applicable Design Review Criteria set forth in Town Code § 17.020.040(A) through (N).

OTHER AGENCY/DEPARTMENT CONDITIONS OF APPROVAL

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. 2022-14; 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).

Ross Valley Sanitary District, Marin Municipal Water District, Fairfax Police, Public Works, and Building Departments had no comments on the project or project specific conditions of approval. Standard conditions of approval from the Ross Valley Sanitary District and Marin Municipal Water District have been included in attached Resolution No. 2022-14.

ATTACHMENTS

Attachment A – Resolution No. 2022-14

Attachment B – Engineering reports by California Engineering Co. 2/6/22 and 4/18/21

Attachment C – Response to comments letter dated 3/8/22 from Weir/Andrewson Associates, Inc.

Attachment D – Applicant's supplemental information

Attachment E – Town Engineer's memorandum dated 4/29/22

Attachment F – Tree Committee's 12/20/21 letter of action

RESOLUTION NO. 2022-14

A Resolution of The Fairfax Planning Commission Approving Application No. 22-10 for a Hill Area Residential Development (HRD), Design Review, and Tree Removal Permits and Combined Side Yard Setback Variance for the Expansion and Remodel of the Existing Residence at 152 Porteous Avenue

WHEREAS, the Town of Fairfax received an application from Peter Brown to demolish approximately 112 square-feet of the existing 714 square-foot, one story, one bedroom, one bathroom residence to construct a 409 square-foot , two story addition resulting in a 1,011 square-foot, one bedroom, one bathroom, single-family residence, relocating the front entry stairway, rebuilding a size foot tall retaining wall and installing a second driveway on May 6, 2021; 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, and Tree Removal permits and Combined Side Yard setback variance at 152 Porteous Avenue; 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.

Design Review (Town Code § 17.020.040)

1. The project depicted in the plans submitted 1/3/22 and the revised 11" x 17" pages received on 5/16/22 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 narrow 67-foot width of the site, the small amount of level site area at the front of the property and the steep 46% slope of the rear of the site are the site features that warrant granting the requested Combined Side Yard Setback Variance to allow a parking space to be created on the 152 Porteous Avenue property, parallel to the right-of-way and front retaining wall, projecting into the required twenty-foot combined side-yard setback. The strict enforcement of the required combined side yard setback would deprive the owner of the ability to improve the small residence, 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 combined side-yards. A redesigned parking configuration with the new parking space parallel to the right-of-way and the front retaining walls and projecting into the side-yard setback allows the retention of the mature California Buckeye located immediately adjacent to the existing driveway. Therefore, the granting of this variance will not be a grant of special privilege.

3. The strict application of the combined side-yard setback would result in unreasonable hardship for the applicants because they would be unable to bring the property into compliance with the Town parking regulations in order to expand and improve the existing house.
4. The proposed parking space will maintain a side yard setback of nine feet from the northern side property line and will be located thirteen feet from the nearest adjacent residence at 150 Porteous. 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 Live Oak approved for removal has 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 architectural plans received by the Town on 1/3/22 and the revised 11" x 17" pages received on 5/16/22; 2/6/22, Geotechnical Reports by California Engineering Co. dated 2/6/22 and 4/18/21; Wier Anderson Associates response to Town Engineer's comments dated 3/6/22, Steven Flatland Land Surveyor, record of survey, recorded 5/17/05, Benjamin P. Jordan, Physical Engineer, engineering plan sheets C1 (revised 3/7/22), sheet C2 (revised 5/13/22) and sheets C3 through C4, submitted 12/23/21 and the site Title Report dated 1/6/21.

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. 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. 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. 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.

11. 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.

12. 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.
13. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them, daily, if necessary.
14. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 22-10. 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 22-10 will result in the job being immediately stopped and red tagged.
15. Any damages to the public portions of Porteous Avenue, Bolinas Road, Meernaa Avenue, Creek Road, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
16. 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.
17. 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.

18. 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.
19. 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.

Ross Valley Fire Department

20. All vegetation and construction materials are to be maintained away from the residence during construction.
21. Hydrant flow and location are to be identified before construction begins.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

27. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
28. 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)

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

Ross Valley Sanitary District (RVSD)

36. A sewer connection permit and a side sewer connection permit are required for all work outside the new building footprint unless the sewer was upgraded upon the recent sale of the property.
37. Fees will include sewer capacity charges as well as permit fees.
38. 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.
39. 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.

40. 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.
41. 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

42. 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.
43. 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.
44. 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.
45. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes.
46. 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.
47. 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.
48. A four-foot-wide sidewalk shall be installed along the entire property frontage as part of the project.
49. The parking, driveway, and sidewalk shall be installed at 152 Porteous Avenue and shall be inspected and approved by the Building Official/Public Works Director prior to the project final inspection.

Town Engineer

50. 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.
51. 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.
52. 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).
53. 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".

54. 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

- 55. 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.
- 56. 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

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