



TOWN OF FAIRFAX

STAFF REPORT

September 7, 2022

TO: Mayor and Town Council

FROM: Linda Neal, Principal Planner

SUBJECT: Consider a Variance for 75 Pine Drive (APN # 003-101-06) to have a 27-foot-wide driveway/parking deck per Town Code Chapter 12.12, and Code § 12.12.050 to access the Planning Commission approved single-family residence; Categorically exempt from CEQA, § 15303(a) and (e).

RECOMMENDATION

- 1) Conduct the Public Hearing
- 2) Adopt Resolution approving Application # 22-18 for a Variance to allow a twenty-seven-foot-wide driveway/parking deck for 75 Pine Drive.

BACKGROUND

On July 28, 2022, the Fairfax Planning Commission approved Hill Area Residential Development Permit, Design Review Permit, Tree Removal Permit, Encroachment Permit and an Excavation Permit as well as a Parking Variance and a Combined Side-yard Setback Variance to allow the demolition of the existing, 2,549 square-foot, three bedroom, one bathroom, dilapidated single family residence and parking deck at 75 Pine Drive to construct a 1,417 square-foot, two story, two bedroom, two bathroom, single-family residence with an attached three car parking deck at street level. No issues relating to the driveway width were identified during the public hearing and there was no neighborhood objection to the proposed project.

DISCUSSION

Driveways are regulated by Title 12 of the Town Code: Streets, Sidewalks, and Public Places. Exceptions to driveway regulations contained in this chapter of the Code do not require Planning Commission recommendation/approval. Specifically, Town Code § 12.12.030 limits driveway approaches or entrances to single-family residences to 20-feet in width within the public right-of-way. Town Code § 12.12.050 gives authority to grant exceptions to this regulation to the Fairfax Town Council subject to the following findings being made:

1. 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 (Zone) District.
2. The granting of the application is necessary for the preservation or enjoyment of substantial property rights of the petitioner; and

3. The granting of the variance will not under any 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.

To accommodate the required three parking spaces for the residence at 75 Pine Drive, the driveway/parking deck will be twenty-seven feet wide. The proposed driveway width is subject to approval of a variance from the Town Council.

The 58% downslope of the site is the site feature that guides the provision of the required parking spaces as parallel spaces on an uncovered parking deck/driveway. Providing the required three parking spaces side-by side and immediately adjacent to the Pine Drive improved roadway is an efficient design that minimizes the site disturbance and keeps the height of the parking structure to a minimum. Designing a driveway bridge/parking deck to accommodate three parking spaces, with only a 20-foot-wide driveway, requires two of the three parking spaces to be in tandem. Such a redesign would push the parking structure an additional 19-feet (the required depth of a standard parking space) towards and onto the property. This would result in a parking structure that reaches thirty-two feet in height above the natural grade and places the parking in a location on the site where it would have to become the roof of the residential structure. This would significantly alter the design options for the residence, altering the development overall appearance and increasing the structure mass.

The requested Variance to allow the 27-foot-wide driveway/parking deck is the minimum necessary to allow the project to move forward to the building permit stage.

The recommended findings for approval for the requested Driveway Width Variance can be viewed in their entirety in attached Resolution (Attachment A).

FISCAL IMPACT

n/a

ATTACHMENTS

- A. Proposed Resolution Granting a Driveway Width Variance for the Property at 75 Pine Drive
- B. Fairfax Planning Commission Resolution No. 2022-18
- C. Project Plans: <https://storage.googleapis.com/proudcity/fairfaxca/uploads/2022/07/Item-3-Plans.pdf>
- D. Link to pc minutes: <https://www.townoffairfax.org/meetings/planning-commission-meeting-july-28-2022/#/tab-minutes>

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
GRANTING A VARIANCE FOR A TWENTY-SEVEN-FOOT-WIDE DRIVEWAY/PARKING DECK AT
75 PINE DRIVE, ASSESSOR'S PARCEL NO. 003-101-06**

WHEREAS, on July 28, 2022, the Fairfax Planning Commission approved Hill Area Residential Development Permit, Design Review Permit, Tree Removal Permit, Encroachment Permit and Excavation Permit as well as a Parking Variance and a Combined Side-yard Setback Variance to allow the demolition of the existing, 2,549 square-foot, three bedroom, one bathroom, dilapidated, single family residence and parking deck at 75 Pine Drive to construct a 1,417 square-foot, two story, two bedroom, two bathroom, single-family residence with an attached three car parking deck at street level; and

WHEREAS, Fairfax Town code Section 12.12.030 provides that a single-family residential property shall have no more than a twenty-foot-wide driveway located within the public right-of-way unless a Variance is granted by the Town Council; and

WHEREAS, on September 7, 2022, the Town Council conducted a duly noticed public hearing on a Variance to consider the request to construct a twenty-seven-foot-wide driveway/parking deck at 75 Pine Drive, that would provide required parking for the proposed single-family residence; and

WHEREAS, at the September 7, 2022, public hearing, the Town Council made the following findings:

1. The 58% downslope of the site is the site feature that results in the provision of the required parking spaces as parallel spaces on an uncovered parking deck/driveway.
2. The granting of the Variance is necessary to enable the site to be developed with three parking spaces, the minimum number of parking spaces that are required to allow redevelopment of the single-family residential site.
3. The development of the twenty-seven-foot-wide driveway/parking deck will not negatively impact neighboring properties or affect the health or safety of persons residing or working in the neighborhood or impact traffic on Pine Drive.

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Fairfax grants the Variance to allow a twenty-seven-foot-wide driveway/parking deck at 75 Pine Drive.

The foregoing resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax on the 7th day of September 2022, by the following vote, to wit:

AYES:
NOES:
ABSENT:

Stephanie Hellman, Mayor

Attest: _____
Michele Gardner, Town Clerk

RESOLUTION NO. 2022-18

A Resolution of The Fairfax Planning Commission Approving Application No. 22-14 for a Hill Area Residential Development (HRD) Permit, Design Review Permit, Excavation Permit, Encroachment Permit, and Tree Removal Permit and Parking and Combined Side Yard Setback Variances for the Construction of a Single-family Residence and Three Car Parking Deck at 75 Pine Drive

WHEREAS, the Town of Fairfax received an application from Lauri Puchall and Turk Kauffman to construct a 1,417 square-foot, two story (split level), two-bedroom, two-bathroom, single-family residence with an attached three car parking deck at street level on April 8, 2021; and

WHEREAS, the application was deemed complete on June 27, 2022; and

WHEREAS, the Commission held a duly noticed public hearing on the proposed project on July 28, 2022, on the project plans; and

WHEREAS, after holding the public hearing 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 Parking and Combined Side Yard setback variances at 75 Pine Drive; 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.

Encroachment Permit ((Town Code Title 12, Chapter 12.32))

The portion of the parking deck that projects into the Pine Drive 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 Permit (Town Code § 17.020.040)

1. The project depicted in the plans submitted to the Town on June 27, 2022, complies with the Design Review Criteria set forth in Town Code § 17.020.040.

Combined Side-Yard Setback and Parking Variances [Town Code § 17.028.070 and 17.052.040(B)]

1. The steep, 58% slope of the site, the narrow fifty foot width and close proximity to the side property lines of the existing residences at 69 and 81 Pine Drive are the site features that warrant granting the requested Combined Side Yard Setback Variance to construct the project. The proposed development will provide much needed parking on the site while evenly distributing the mass of portions of the structure located five feet from the east and west side property lines. The strict enforcement of the combined twenty-foot side yard setback regulations would impact one of the neighboring homes more than the other.
2. There are other properties in the vicinity that maintain only the minimum five-foot side yard setbacks, the setbacks that were in existence when this area of Pine Drive was originally developed. 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 property more into compliance with the Town parking regulations while also allowing the construction of the house in a manner that allows a portion of the front of the house to not be obstructed by an overhanging parking deck.
4. The proposed structure will maintain the same or greater side yard setbacks than the existing structure to be demolished. 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 Permit [Town Code § 8.36.040(A)]

The two Bays approved for removal were required to be removed by the Ross Valley Fire Department as part of the vegetative management plan and the project arborist has indicated their removal will improve the health of the nearby oak trees. 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.

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. The location of the energy dissipater shall be determined, shown on the construction plans, and approved by the Town Engineer prior to issuance of the project building permit.
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.
10. 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.
11. Prior to the start of construction, the surveyor shall mark the side property lines and submit a signed and stamped letter to the Building Department indicating that side property line locations are marked per the boundary survey.
12. 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

construction activities during this period is submitted by a qualified biologist and approved by the State Department of Fish and Wildlife, with documentation of the approval provided to the Town, prior to initiation of any construction activities. All requirements listed in the plan, including potential onsite monitoring, must be met by the applicants at all times.

17. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 22-14. Modifications that do not significantly change the project, the project design or the approved discretionary permits *may* be approved by the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 22-14 by the Planning Commission or the Planning Director will result in the job being immediately stopped and red tagged.
18. Any damages to the public portions Pine Drive, Laurel Drive, Cascade Drive, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
19. 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.
20. 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,

30. 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.
31. 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.
32. 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.
33. 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.
34. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
35. 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)

36. A copy of the building permit must be provided to the district along with the required applications and fees.
37. The foundation must be completed within 120 days of the date of application.
38. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
39. Any landscaping plans must be reviewed and approved by the district.
40. Backflow prevention requirements must be met.
41. 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.

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.

53. A driveway width variance shall be approved by the Fairfax Town Council prior to issuance of the building permit.

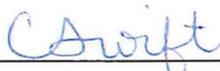
NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Hill Area Residential Development Permit, Design Review Permit, Excavation Permit, Encroachment Permit and Tree Removal Permit and Parking and Combined Side-yard Setback Variances to allow construction of the proposed house and parking deck 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.

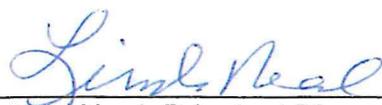
The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 28th day of July 2022, by the following vote:

AYES: Green, Jansen, Kelly, Newton, Acting Chair Swift
NOES: None
ABSENT: Fragoso



Acting Chair Cindy Swift

Attest:



Linda Neal, Principal Planner