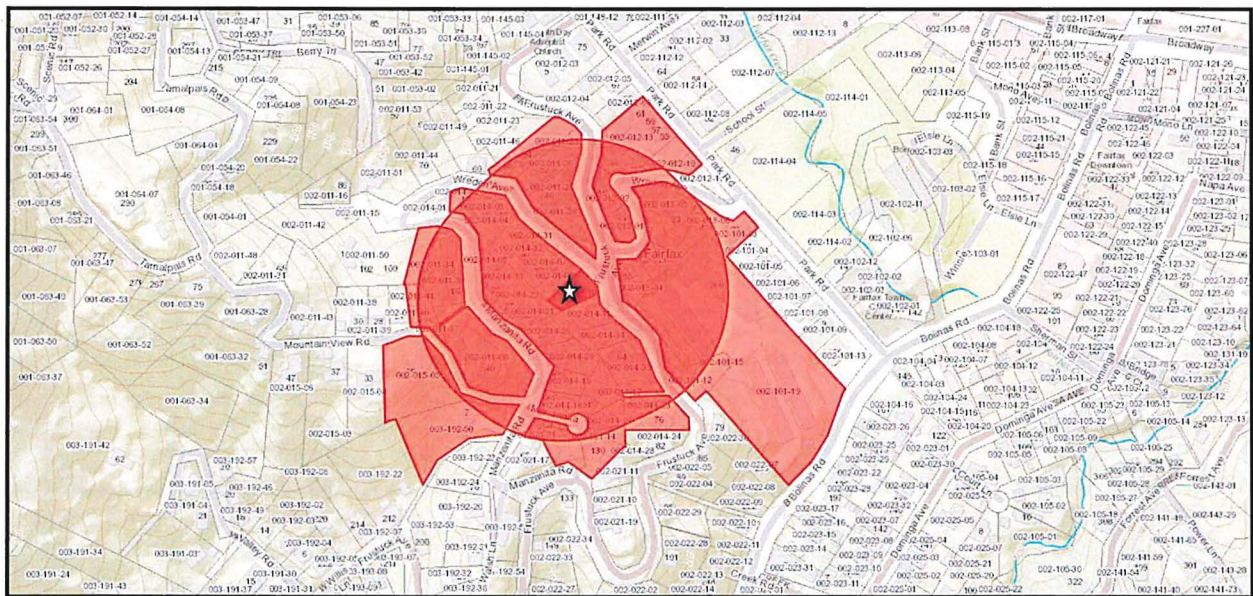


TOWN OF FAIRFAX STAFF REPORT ADENDUM

Department of Planning and Building Services

TO: Planning Commission
DATE: October 27, 2022
FROM: Linda Neal, Principal Planner
LOCATION: 35 Wreden Avenue; APN # 002-014-10
ZONING: Residential Single-family RS 6
PROJECT: Addition/remodel and modification/reconstruction of front access stairway to an existing single-family residence
ACTION: Conditional Use Permit, Combined Side-yard Setback Variance, and a Parking Variance; Application # 22-21
APPLICANT: Christopher Arnold
OWNER: Christopher and Kristin Arnold
CEQA STATUS: Categorically exempt, § 15301(e)(1).



35 WREDEN AVENUE

PROJECT DESCRIPTION

The project includes reconfiguring the front entry stairway to an existing residence to comply with building code requirements and constructing a 51-square-foot addition to the front of the existing 1,182 square-foot, 2-bedroom, 1-bathroom, residence to accommodate a minor remodel to add one full bathroom and a small bedroom/office. The addition/remodel will result in a 1,233 square-foot, 3-bedroom, 2-bathroom, single-family residence.

BACKGROUND

The 5,380 square-foot site was created by the recording of Map No. 1 of the Fairfax Park Tract on June 5, 1911, at the Marin County Recorder's Office. The structure was built in 1962.

DISCUSSION

Town Code § 17.080.050(C) requires a property with a 37% slope to increase above 7,000 square-feet in size and 65-feet in width at a rate of 1,000 square-feet in size and 3-feet in width for every 1% increase in slope above 15-percent. A site with a 37% slope would have to be 29,000 square foot size and 131-feet wide to comply with the current minimum size and width requirements adopted in 1973. The site is legal non-conforming at 5,380 square-feet in size and 67-feet wide at the street with a 37% average slope.

In accordance with Town Code § 17.080.050 a conditional use permit or a Hill Area Residential Development permit are required for projects on non-conforming properties. The proposed project is subject to approval of a Conditional Use Permit and not a Hill Area Residential Development Permit because the project is not a fifty percent remodel, and the construction will only require the excavation of 2-cubic-yards of material [Town Code § 17.072.020(A)(4) and 17.072.050(A)].

The project compliance status with the development regulations for the Residential Single-family RS 6 Zone is shown in the table below:

	Front Setback	Rear Setback	Combined Front/rear Setback	Min. 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.	40 ft.	48 ft.	6 ft. & 5 ft.	11 ft.	.22	.30	14 ft. 3 in., 2 stories
Proposed	No change	No change	No change	No change	No change	.23	.30	No change

Required Discretionary Permits

Conditional Use Permit

The site size and width are legal non-conforming based on the site 37% slope, so the project requires the approval of a Conditional Use Permit in accordance with Town Code § 17.080.050(C).

The purpose of the Conditional Use Permit process is to make sure proposed projects are properly integrated into a project site and neighborhood.

The proposed new entry stairway and landings are located in the only place they can be

located to retain the existing parking spaces, provide the most direct access from the street and parking to the relocated front door while complying with the California Building Code and trying to maintain the largest combined side-yard setback possible (see the proposed site plan on page 3 of the project plan set).

The remodel/addition and entryway are similar in design and location, and the project maintains similar setbacks, to other developed single family residential properties found throughout the Fairfax Park Subdivision.

The location of the expansion and relocated front entryway will not negatively impact the neighborhood or the public use of Frustuck and Wreden Avenues.

The proposed expansion to provide an additional 78-square-foot bedroom/office and second bathroom is not contrary to the objectives or standards of the 2010-2030 Fairfax General Plan or Title 17 Zoning of the Fairfax Town Code.

Modifying the structure to accommodate the changing needs of the residents, and the location of the addition at the front of the structure, not projecting any further towards the front property line or the northern side property line than the existing structure, will result in equal or better development of the site with minimal site disturbance which is in the public interest.

Combined Side-yard Setback Variance

The lot is narrow, and the front property line is longer than the rear property line resulting in an irregularly shaped parcel with side property lines not at ninety-degree angles to the street. The house was built in 1962 when there were no combined side-yard setback regulations. The existing house maintains a combined side-yard setback of 11-feet, while Town Code § 17.080-070(B)(2) requires a combined side-yard setback of 20-feet.

The proposed entryway at the northwest corner of the house will maintain a 9-foot 6-inch setback from the west side property line and a 14-foot 6-inch combined side-yard setback (table above show combined setback currently maintained by the existing structure, new entry will encroach approximately 5-feet into the required 20-foot combined side-yard setback on the west side of the site while the existing east side of the house maintains a 5-foot setback). Therefore, the project requires the approval of a Combined Side-yard Setback Variance.

The requested combined side-yard setback variance is reasonable due to the irregular shape of the site and the 37% slope. The project will maintain similar setbacks from the property lines as other developed properties in the vicinity and will not be a grant of special privilege, the relocation of the front entryway is necessary to accommodate the proposed minor addition and compliance with the required setbacks would be a hardship for the applicants and make it impossible to construction the side wall of the addition in line with the existing house, and the approximately 18-foot distance of the addition from the nearest house at 39 Wreden Avenue and the and the approximately

19-foot setback from the street ensure the project will not be detrimental to the general public using Wreden and Frustuck Avenues or to the neighbors.

See attached Resolution No. 2022-29 for the complete findings for approval of the requested Combined Side-yard Setback Variance.

Parking Variance

Town Code § 17.052.030 (A)(1) requires single-family residences to have a two 9-foot by 19-foot parking spaces, § 17.052.030(A)(2) requires each single-family residence site to have a third guest parking space when a legal on-street parking space is not available along the property street frontage, and Town Code §17.052.010(D) requires at least one of the spaces on the property to be a covered parking space.

Town Code 17.016.040(B) indicates that the aggregate amount of construction, alteration, enlargement or reconstruction on any non-conforming structure or structure on a non-conforming lot shall not result in the addition of a bedroom while Town Code § 17.016.040(C)(2)(a) grants relief from this restriction if the off-street parking requirements are met or the Commission grants an exception to the parking requirements.

The site has just two conforming parking spaces. One 9-foot by 19-foot space is provided in the garage and one 9-foot by 19-foot space exists in the driveway between the garage and the front entry stairway. The site plan indicates that a compact 8-foot by 16-foot space exists in front of the garage parallel to the street with only the southeastern corner projecting into the right-of-way (where Frustuck Avenue and Wreden Avenue intersect). The parallel space does not comply with the 9-foot by 22-foot parallel parking space size requirements set forth in Town Code § 17.052.040(A). It does comply with the 8-foot by 16-foot compact parking space size requirement. There is an existing mature Oak Tree located on the east side of the driveway and a power pole located in the center of the driveway which limit the ability of the owners to enlarge the existing compact space to the minimum required 9-foot by 22-foot parking space standards. Therefore, the approval of a parking variance to allow the third space to remain a compact space would allow the remodel to increase the number of bedrooms on the property from two to three. The third bedroom, which is also called out as an office on the plans, will be 78-square-feet which is less than the size of an approximately 120 square-foot, one car garage. 120 square feet is the minimum size to comfortably accommodate a full-sized bed. Therefore, the bedroom/office space being proposed will likely be used as an office or a small child's bedroom.

The project does increase the capacity of the house under state law from accommodating two adults per bedroom, for a total of four adults in the existing house, to six adults once the third bedroom is constructed. The Commission needs to consider if the compact space provided in the driveway is adequate.

The Commission has granted similar variances to have the third guest parking space be a compact space parallel to the roadway to accommodate new construction and

remodels of existing residential structures in the hillside areas of Town (176 Willow Avenue, 75 Pine Drive).

However, the need for complying off street parking is becoming more urgent with the adoption of the new State Accessory Dwelling Unit (ADU) regulations which allow the conversion of garages for existing residential single-family or duplex properties into ADU's without the replacement of that parking. The increase in wildfires throughout California and the need for adequate roadway width for emergency response vehicle access is also putting pressure on communities to find additional parking off the public right-of-way and on private property. This is particularly a concern in communities like Fairfax where any extra roadway width has been historically used to accommodate the parking of vehicles belonging to residents of adjacent structures that have inadequate parking because the homes were built decades before it became common for many families have two or more vehicles.

The Commission should also consider whether it is reasonable to deny the request for a parking variance when other residences in the immediate area have less parking than this property and when the proposed addition/remodel is so modest.

Staff believes findings can be made for the requested parking variance to allow the third parking space to be a compact space due to the small 78-square-foot size of the bedroom with just an 8-square-foot closet, and the bedrooms proposed dual use as an office.

See attached Resolution No. 2022-29 for the complete findings for approval of the requested Parking Variance.

Other Agency/Department Comments/Conditions

This report lists conditions that are not boilerplate and are specific to this project only. A complete list of the conditions applicable to this project can be viewed in the attached Resolution No. 2022-29.

Ross Valley Fire Department (RVFD)

A vegetative management plan and sprinkler system plans are required to be reviewed and approved by RVFD prior to issuance of the building permit.

Ross Valley Sanitary District (RVSD)

The existing sewer lateral is compliant as of 5/2/17 and will not require testing as long as no new sewer lateral additions or changes are made to the system. This lateral exemption lasts for 20 years from the last testing date.

Marin Municipal Water District MMWD, Fairfax Police Department, Fairfax Public Works Department and Fairfax Building Department

The agencies/departments listed above did not comment on the project.

RECOMMENDATION

Conduct the public hearing.

Move to approve Application # 22-21 by adopting Resolution No. 2022-29 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A – Resolution No. 2022-29

RESOLUTION NO. 2022-29

A Resolution of the Fairfax Planning Commission Approving Application No. 22-21 for a Conditional Use Permit, Combined Side-yard Setback Variance and a Parking Variance for a Remodel and Expansion of the Existing Single-Family Residence at 35 Wreden Avenue

WHEREAS, the Town of Fairfax received an application from Kristin and Christopher Arnold for an approximately 51 square-foot addition and remodel of a single-family residence at 35 Wreden Avenue on July 20, 2022; and

WHEREAS, after holding a duly noticed public hearing on October 27, 2022, on the project, the Planning Commission determined that the project complies with the Conditional Use Permit Regulations and findings can be made to grant the requested Conditional Use Permit and the requested Combined Side-yard Setback Variance and Parking Variance at 35 Wreden 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-7.1.5: New and renewed residential development shall preserve and enhance the existing characteristics of the Town's neighborhoods in their diverse architectural style, size and mass.

Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

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.

Conditional Use Permit Findings (Town Code § 17.032.060)

1. The proposed addition, while resulting in new living space being constructed within the required 20-foot combined side yard setback, conforms to the rest of the required setbacks, the Floor Area Ratio and Lot Coverage Limitations of the RS 6 Residential Zone and does not decrease the combined side-yard setback already being maintained by the existing residence. The project will result in development of the site similar to development seen throughout the Fairfax Park Subdivision and will not be a grant of special privilege.
2. The project will not project closer to the front or side property lines than the existing structure and the addition will maintain the existing height of the residence. Therefore, the development and use of the property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and

ATTACHMENT A

enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town; and
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and the approval to accommodate the existing residents changing needs is in the public interest and for the protection or enhancement of the community.

Combined Side-yard Setback Variance [Town Code § 17.028.070(A)]

1. The narrow 67-foot width and steep 37% slope are the site features that necessitate the granting of the parking variance for a compact parking space within the driveway, parallel to the adjacent improved right-of-way combined side-yard setback variance. The project will maintain similar setbacks from the property lines to other properties in the vicinity. Therefore, the strict application of the 20-foot Combined Side-yard Setback regulations will deprive the applicants of privileges enjoyed by other property owners in the vicinity.
2. The variance to maintain a combined side-yard setback of 14.5-feet is consistent with the limitations upon other properties in the vicinity and in the Residential RS 6 Zone to the granting of the variance is consistent with the objectives of Title 17, Zoning.
3. The strict application of the required 20-foot combined side-yard setback will result in unreasonable hardship for the owner since they will be unable to build the new entry addition in line with the side wall of the existing house maintaining a combined side-yard setback of 14.5-feet which is greater than the combined side yard setback currently maintained by the west portion of the existing residential structure.
4. The approximately 18-foot distance of the addition from the nearest house at 39 Wreden Avenue and the and the approximately 19-foot setback from the street ensure the project will not be detrimental to the general public using Wreden and Frustuck Avenues or to the neighbors.

Parking Variance [Town Code § 17.028.070(B)]

1. The small 78 square-foot size of the additional bedroom/office is not expected to generate increased traffic to the site or to significantly increase the need for parking on the site beyond that which exists now.
2. Granting of a parking variance to allow the existence of a compact space parallel to the improved Wreden and Frustuck Avenue rights-of-way will not result in the parking or loading of vehicles on the public street in a manner that will interfere with the free flow of traffic.

3. Granting of the variance to allow the third on-site parking space to be a compact 8-foot by 16-foot space will not create a safety hazard.

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

1. The project is approved based on the architectural plans prepared by Architect Peter Arnold, received by the Town on July 20, 2022.
2. Prior to issuance of any of the building permits for the project the applicant or his assigns shall:
 - a. Submit a construction management plan to the Public Works Department for their approval. The 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
 - b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes to be approved by Public Works Director).
 - c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage (including emergency damage) to public roadways. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Building Official. 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.
3. The foundation elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Town Structural Engineer.
4. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Department, Marin Municipal Water District, and the Ross Valley Sanitary District noting the development conformance with their recommendations.

5. During the construction process the following shall be required:
 - a. Prior to the concrete form inspection by the building official, the project Structural Engineer shall field check the forms of the foundations and provide written certification to Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
 - b. The Building Official shall field check the concrete forms prior to the pour.
 - c. All construction-related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
 - d. 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.
6. Prior to issuance of an occupancy permit the Planning Department and Building Official shall field check the completed project to verify that any and all planning commission conditions and required engineering improvements have been complied with.
7. 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.
8. The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.
9. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 22-21. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Commission or the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application # 22-21 will result in the job being immediately stopped and red tagged.
10. Any damages to the public portions of Wreden Avenue, Frustuck Avenue, Park Road or other public or private roadway used to access the site resulting from construction-related activities shall be the responsibility of the property owner.

11. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, 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.
12. 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.
13. In accordance with Town Code §8.20.060(C)(1) and (2), the operation of any tools or equipment used in construction or demolition work or in property maintenance work between the hours of 6:00 PM and 8:00 AM Monday through Friday, or on weekends and holidays between 4:00 PM and 9:00 AM is prohibited.
14. Conditions placed upon the project by outside agencies or Town departments or may be eliminated or amended with that agency's or department's written notification to the Planning Department prior to issuance of the building permit.

Ross Valley Fire Department (RVFD)

15. All vegetation and construction materials are to be maintained away from the residence during construction.

16. 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.
17. A class A roof assembly is required.
18. 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.
19. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of one detector on each story of the occupied portion of the residence.
20. 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.
21. Address numbers at least four 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.
22. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
23. 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) Conditions

24. All indoor and outdoor requirements of District Code Title 13, Water Conservation must be complied with.
25. Backflow prevention requirements must be met.
26. Any landscaping plans must be reviewed and approved by the District.

27. Ordinance 420, requiring installation of a 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.

28. All the District's rules and regulations in effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

29. The existing sewer lateral is compliant as of 5/2/17 and will not require testing as long as no new sewer lateral additions or changes are made to the system. This lateral exemption lasts for 20 years from the last testing date.

Miscellaneous Conditions

30. 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 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 Conditional Use Permit, Combined Side-yard Setback Variance and Parking Variance for the approximately 51 square-foot addition and remodel 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 27th day of October 2022 by the following vote:

AYES:

NOES:

ABSENT:

Chair Norma Fragoso

Attest: David Woltering, Interim Planning Director