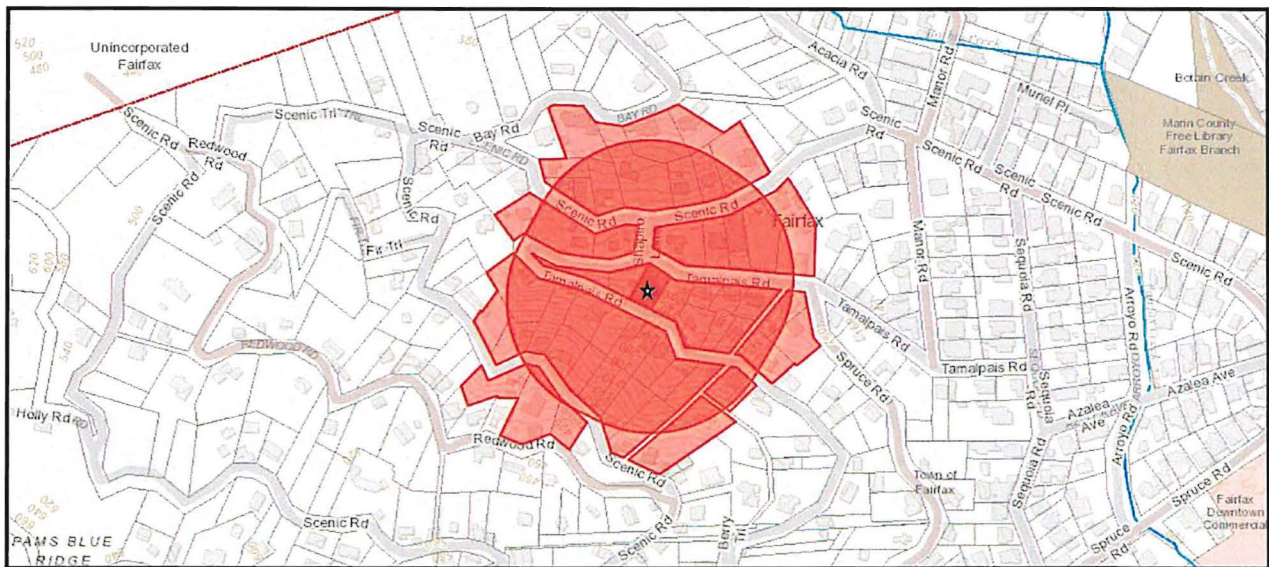


**TOWN OF FAIRFAX
STAFF REPORT ADENDUM
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: December 15, 2022
FROM: Linda Neal, Principal Planner
LOCATION: 67 Tamalpais Road; Assessor's Parcel No. 001-12-03
ZONING: RS-6 Single-family Residential Zone
PROJECT: Construction of a single-family residence, accessory dwelling unit, and attached garage
ACTION: Hill Area Residential Development Permit, Design Review Permit, Excavation Permit, Tree Removal Permit, and Combined Front/Rear Setback Variance; Application # 22-29
APPLICANT: Ron Kappe, Architect
OWNER: Stephen Altman
CEQA STATUS: Categorically exempt, § 15303(a).



67 TAMALPAIS ROAD

PROJECT DESCRIPTION

The project includes construction of a 28-foot 6-inch tall, three-story structure with a 315 square-foot, one car garage and a 497 square-foot, internal studio accessory dwelling unit (ADU) on the first floor. A 968 square-foot, second story provides two bedrooms and two bathrooms with a shared closet that will contain a stacked washer and dryer (includes interior stairway square footage). The third story is designed as a great room containing a living room area, dining room area, and the kitchen with a half bathroom.

The site slopes up steeply from Tamalpais Road at an average rate of 58% and there are no existing level areas that can be used for outdoor living space. The design includes a 60 square-foot deck at the front of the structure off the master bedroom on the second floor, a 150 square-foot deck at the front of the dining room on the third floor, and an excavated, three level, patio area that begins of the south-east side and wraps around the south corner of the structure providing 554 square-feet of outdoor living space that can be accessed from the great room along the rear and side of the structure.

Two, 9-foot by 22-foot, parallel parking spaces are in an expanded driveway area along the front of the site with the structure retaining walls designed to accommodate a storage area for waste bins (garbage, recycling, and a green can). Only one of the uncovered spaces is in tandem with the one covered parking space in the garage.

BACKGROUND

The approximately 5,658 square-foot site is a street-to-street (through) lot with both the front property line and the rear property line abutting different sections of Tamalpais Road. The site was created by the Amended Map of Fairfax Manor recorded at the Marin County Recorder’s office in 1919.

In the 1970’s the owner of the site granted easements to the two properties located on the upper, south side of the site at 118 and 120 Tamalpais Road for the construction of covered parking decks. The 118 and 120 Tamalpais sites both slope up steeply across the road from the section of Tamalpais Road that runs along the back side of the project site and were developed with single-family residences in the 1950’s with the covered parking decks built in the 1970’s.

DISCUSSION

The project compliance with the requirements of the RS-6 Single-Family Residential Zone is documented in the following table:

	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.	25 ft.	.40	.35	28.5 ft., 2 stories
Proposed	10 ft.	1 ft.	11 ft.	5 ft. & 15 ft.	20 ft. (structure, 15 ft. uncovered parking)	.40	.35	28.5 ft., 2 stories

Note: The 35% lot coverage does not include the two parking decks at the top of the property which were built for the benefit of 118 and 120 Tamalpais Road.

The project requires the approval of the following discretionary permits:

Hill Area Residential Development Permit

Town Code § 17.072.020(A)(4) sets forth the site conditions and project design specifications that result in a project falling into the Hill Area Residential Development Overlay Zone. Sites with a 58% slope such as the project site, located in a landslide hazard zone as shown on the 2010-2030 Fairfax General Plan, Figure S-3, Area Susceptible To Landslides, that require the excavation and/or fill of over 50 cubic-yards of material are subject to obtaining a Hill Area Residential Development (HRD) Permit prior to applying for a project building permit.

The purpose of the HRD permit is to encourage maximum retention of natural topographic features such as drainage ways, streams, slopes, ridgelines, rock outcroppings, vistas and natural plant formations and trees, to minimize grading of hillside areas, provide safe ingress and egress for vehicular and pedestrian traffic, minimize water run-off and soil erosion during and after construction, prevent loss of life, minimize the potential of injuries, property damage and economic dislocations from geologic hazards, and to ensure that infill development on hillsides sites is of a size and scale appropriate to the property and consistent with other properties in the vicinity under the same zone classification [Town Code sections 17.072.010(B)(1) through (6)].

Excavation Permit

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

The site has several constraints in addition to its steep slope and narrow width that exist through no actions of the current owner. The house to the north-west at 73 Tamalpais Road, built in 1916, has a two-story garage/ADU structure and a single-family residence both built to the western side property line with no setback. The entry stairway to the house to the south-east at 63 Tamalpais Road extends from the private property into the Tamalpais right-of-way and along the frontage of a small portion of the project site and a previous owner allowed two parking decks to be built at the top, southern side of the project site with a minimum setback from the south-west property line of approximately 1-foot.

Since parking for a proposed house on the site cannot be built at the top (southwest side) of the site due to the location of the two existing parking decks for 118 Tamalpais Road and 120 Tamalpais Road, the only way to provide the parking required for the new residence is to access it and the proposed house from the lower portion of Tamalpais Road, excavating and off-hauling 867 cubic yards of material necessary to

build the parking and residence in compliance with parking regulations and height limitations set forth in the RS-6 Zone regulations.

The Town Engineer has performed a site inspection and reviewed the following plans and reports pertaining to the project:

1. Project Plan Set including the architectural plan by Ron Kappe, Kappe Architecture Inc., topographic survey by ILS, Civil Engineering and Land Surveying, preliminary grading and drainage plan by HEI Harrison Engineering Inc., landscaping plan by MTW group, landscape Architecture and Planning, dated received by the Town on August 11, 2022.
2. Revised Geotechnical Investigation Report by DAC Geotechnical, Structural, Civil Engineering dated June 21, 2022 (Attachment B).
3. Temporary shoring report by DAC Geotechnical, Structural, and Civil Engineering dated August 2, 2022.
4. Grading and drainage report by Randall Harrison, P.E. with Harrison Engineering Inc. dated July 27, 2022.
5. 9/30/22 response to Town incomplete letter from Kappe Architecture.

The Town Engineer had originally requested that additional test borings be done to the maximum depth of the proposed project foundation to ensure that bedrock had been reached and was not just a large rock outcropping/rock in the area of the specific boring holes. After the Town Engineer and the project engineer further reviewed the matter, the Town Engineer agreed that the project can move forward at this stage without additional test borings if the following conditions are complied with prior to issuance of the building permit for construction of the residential structure:

1. An initial and separate shoring permit shall be submitted prior to issuance of the building permit for the construction of the house. The shoring permit shall be reviewed and approved by the Town Engineer prior to issuance of the building permit. The shoring system design shall include additional boring to the full extent of the anticipated excavation to inform the proposed shoring system design.
2. The Project Geotechnical Engineer shall observe and document conditions during the shoring wall drilling and construction and shall provide a letter to the Town summarizing his observations during the shoring pier drilling and either verify or supplement his recommendations.
3. If the proposed project design is impacted by the revised or supplemental recommendations, applicable plan sheets should be revised and will be subject

to review and approval by the Planning Director and the Town Engineer prior to issuance of the building permit for construction of the house.

4. If the Planning Director determines the changes require Planning Commission review and approval, such as significant changes to the project excavation estimates, changes that will change the height of the house or the exterior appearance, etc. staff will advise the applicant that the project will require approval of a modification to the discretionary permits already issued for the project. The planning permit modifications must be obtained before a building permit for the house construction can be issued.

With the inclusion of the above conditions the Town Engineer has determined that the project can be engineered and constructed to avoid geologic, hydrologic, or seismic hazards.

Foundation Type/Slope Stability

The proposed foundation will be a combination of spread footing foundation and drilled pier and grade beam foundation systems with the spread footing foundation being permitted in areas where the footings can be constructed 18 inches into bedrock and the drilled pier and grade beam system used where the expected depth of the construction excavation is not likely to reach competent bedrock. The specific types of foundation locations shall be determined during the shoring permit design. While not the typical method of providing this information to the Town with the bedrock depth determined prior to the Planning Commission acting on the project, the proposed method is acceptable to the Town Engineers. The shoring permit and definite bedrock depth determinations prior to issuance of the temporary shoring permit and subject to their review, and approval prior to issuance of the of the building permit application has been determined to be an acceptable method for the project to move forward to the Planning Commission public hearing on the project.

The amount of excavation and the exterior design of the structure is not expected to substantially change due to this method and has been found by the Town Engineer and the Planning Director to be an acceptable path forward for this project.

Drainage

The site is located across Tamalpais Road from one of the tributaries leading to the main Fairfax Creek. The subdivision was created before there were requirements for formal drainage systems and water sheet flows across the site from the road and hillside above, following the topography until it reaches the creek tributary paralleling Tamalpais Road. The subsurface site drainage from the hillside above the proposed structure will be captured by the back-drains for the rear retaining walls in solid, below grade pipes, and directed to the discharge points on either side of the driveway. Surface run-off from the site, the rear patios and the structure roof will be directed to and captured in catch basins on either side of the project and then directed to one of two 250 gallon, below grade, stormwater detention/dispersion tanks where the water will be collected and be discharged slowly to the street.

Neighborhood Context

The table below compares the size of similar sized and sloped properties in the Tamalpais Road neighborhood as well as the property sizes and floor area ratios maintained by the residences in the immediate vicinity to the proposed project and project site.

67 TAMALPAIS ROAD – COMPARABLE SITES AND NEIGHBORHOOD HOUSE SIZES							
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	GARAGE	FAR
001-123-02	73 TAMALPAIS RD.	3,900	1,318 & 209 STUDIO ADU	2	2	209	.39 (.34 without ADU)
001-123-04	63 TAMALPAIS RD.	5,400	1,499	2	2	0	.28
001-123-07	47 TAMALPAIS RD.	4,800	1,392	3	2	0	.29
001-123-25	43 TAMALPAIS RD.	6,250	1,488	3	2	440	.24
001-123-36	143 SPRUCE RD.	7,810	1,609	3	1.5	288	.21
001-123-10	161 TAMALPAIS RD.	5,400	1,941	3	2	0	.36
001-123-11	153 TAMALPAIS RD.	5,750	1,180	2	2	0	.21
001-123-28	123 SPRUCE RD.	7,450	1,653	3	2	0	.22
001-126-02	31 TAMALPAIS RD.	7,000	984	2	1	0	.14
001-126-03	126 SPRUCE RD.	6,446	1,765	3	3	240	.27
PROJECT SITE – 67 TAMALPAIS ROAD							
001-123-03	67 SPRUCE RD.	5,718	1,772 & 497 JADU	2 MAIN UNIT STUDIO	2 STUDIO	315	.40 (.30 without ADU)

The .30 FAR that will be maintained by the main residence is within the range of the FAR's found on other developed sites in the immediate neighborhood and the "Amended Map of Fairfax Manor" subdivision area. The .40 FAR maintained by both the residence and attached ADU does not exceed the permitted FAR set forth in Town Code § 17.136.030(A) nor will the single-family residence and ADU exceed the maximum 3,500 square-foot maximum floor area limit of Town Code 17.136.030(B). Therefore, the development will not be out of scale with the building site.

The applicants have provided photographs of the varied architectural styles found throughout the neighborhood which can be viewed in Attachment D.

Design Review Permit

The proposed residential structure has been located closest to the north-west side of the site with a setback from the neighboring residence and detached, two story, garage/ADU at 74 Tamalpais Road of 5-feet. The house at 74 Tamalpais Road was built in 1916 on the property line. The 15-foot side yard setback is proposed on the south-east side of the site where the existing residence at 63 Tamalpais Road is located 6-feet from the eastern side property line. The impacts of a new house on the

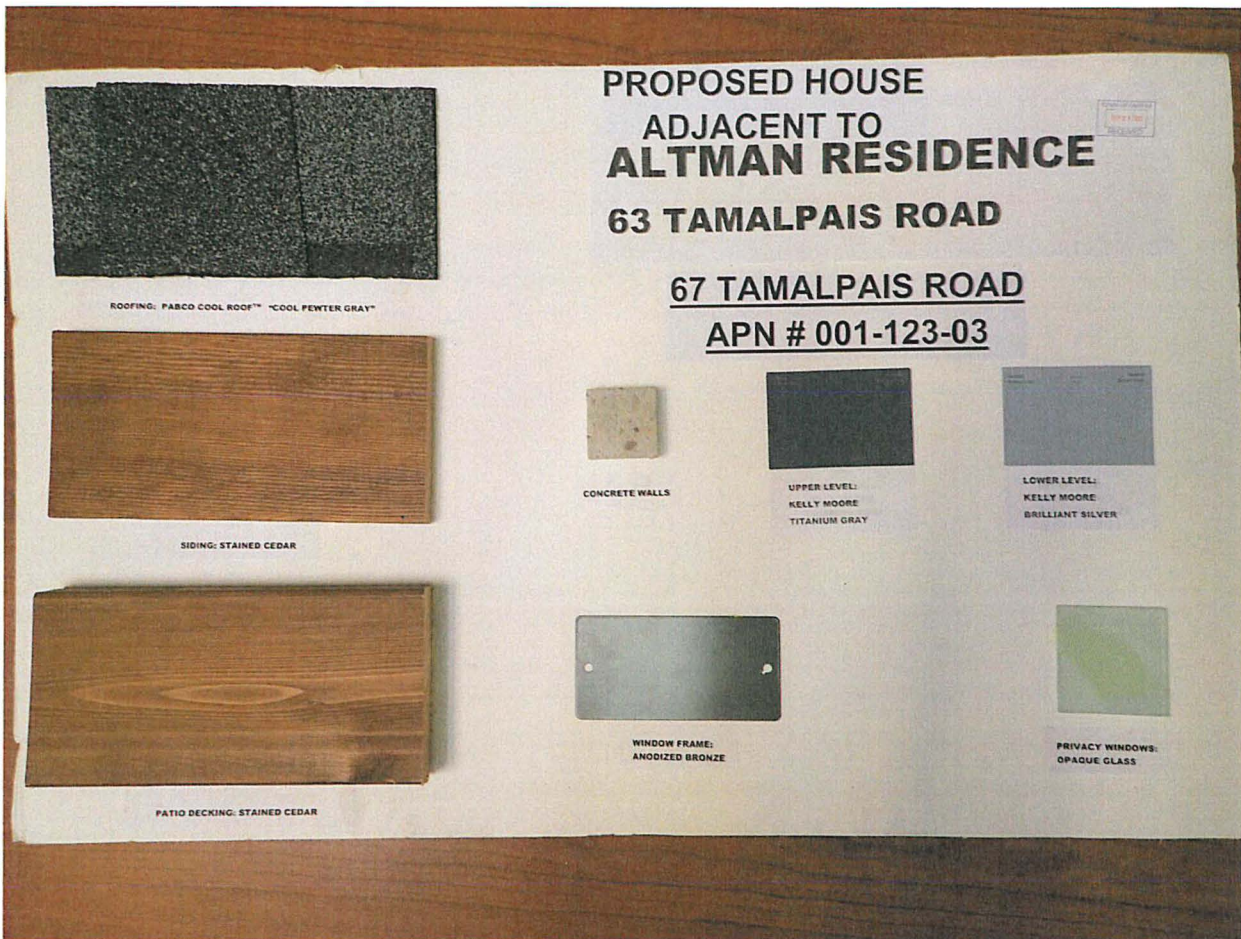
neighboring sites would have been more equitably shared if the house were proposed in the center of the site instead of the largest side setback being located on the south-east side facing toward 63 Tamalpais Road, which is owned and lived in by the project applicant. However, relocation of the project to the center of the site would necessitate the relocation of the rear entry stairway to 63 Tamalpais Road to the 63 Tamalpais Road frontage and could potentially increase the amount of excavation and height of the rear patio retaining walls of the proposed house.

To minimize the impacts of the house being located just five feet away from the development at 74 Tamalpais Road, the two windows proposed on the second floor and one of the four windows proposed on the third floor of the north-west wall of the structure will be screened with vertical wooden "privacy" fins while the 3 glass windows in the third floor bathroom facing north-west will be opaque (Please note that the north-west and south-east notations on page A3.0 and A3.2 are mislabeled and should be switched between elevation numbers 3 and 4). The residence at 74 Tamalpais Road is oriented running southeast to north-west on the site with only the south-western most corner touching the shared side property line with proposed 67 Tamalpais Road. The rest of the existing residence maintains a setback from the eastern side property line that ranges from approximately 2-feet to 8-feet. A privacy screen also made of wood fins is proposed on the west side of the second floor, front, master bedroom, deck extending from the deck floor to the sub-floor of the third story. On the south-east side of the house, facing 63 Tamalpais Road, the second story window located at the bottom of the interior stairway access will also be fitted with the exterior window privacy fins and the northeast side of the second-floor deck will have a wood fin privacy screen above the first floor deck cable railing (see plan set pages A3.0, and page A3.1).

There are numerous windows proposed on the front, rear, and south-east sides of the third story of the proposed structure. The front and rear windows are at elevations that overlook the rear and side patio of the site and out over the roof-top of the house across the street from the site at 123 Scenic Road. The windows facing south-east will be approximately 26-feet or more from the neighboring residence at 63 Tamalpais Road (owned and resided in by the applicant at this time).

The structure exterior is heavily articulated. The design steps up the hillside and uses trellises and exterior decks on the front of first and the third stories with the third-story deck wrapping around the south-east side to break up the exterior façade.

The use of exterior materials that alternate between poured grey concrete, painted grey stucco in two different shades of gray (Benjamin Moore Rock Gray 1615 and Thunder Cloud Gray 2124-40), stained horizontal cedar siding, wood panel siding stained to match the horizontal siding, stained cedar fascia and dark bronze aluminum windows add to the articulation of all sides of the project exterior. The roof will be dark gray, class 1, asphalt shingles and the decks will have cable railings with a cedar top (see colors and materials board below).



Three wall mounted exterior LED downlight and wall wash cylinder lights are proposed on the front of the structure. Two additional LED cylinder downlights are proposed, one on the south-east side of the third story and one on the rear, south-west side of the third story. The proposed light fixtures appear to be dark sky compliant, but staff has included the following standard dark-sky compliant requirement in the resolution for the project and the applicants will have to provide the required information to verify compliance prior to issuance of the project building permit:

- All the exterior lighting 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.

Landscaping Plan

Landscaping is proposed along the south-east and south sides of the structure.

Landscaping plants include one, 15-gallon, low water use, tree (Japanese Maple), fifteen, 5-gallon, low water use shrubs of various species, and three, 1-gallon, vines. The irrigation plan is subject to the review and approval of the Marin Municipal Water District (plancheck@marinwater.org).

The structure's design complies with the design review criteria set forth in Town Code § 17.020.040 and will protect the aesthetic and functional relationships to surrounding development.

Combined Front/Rear Setback Variance

The new development maintains the required 35-foot combined front/rear setback and it is only the covered parking decks at the top of the site result in the non-conforming 11-foot, combined front/rear setback; otherwise the unusual features of the site that warrant the approval of a Combined Front-Rear Setback Variance are the steep 58% slope, narrow 60-foot width and that the site is being used to meet the parking requirements of three residential properties.

Combined Side-Yard Setback Variance

While writing the staff report staff realized that the proposed uncovered parking spaces sited along the property structure between the front property line and the proposed building frontage encroach into the combined side-yard setback. Town Code § 17.052.010(B) prohibits parking within a side-yard setback and the uncovered parking spaces in front of the garage will encroach into the 20-foot combined side-yard setback. The project legal notice did not indicate that the project requires a combined side-yard setback variance and only referenced the combined front-rear setback variance being requested.

Staff can support and recommend findings to the Commission to approve the Combined Side-Yard Setback Variance once it is legally noticed based on the narrow 60-foot width of this sloped site. Town Code § 17.080.50(c) requires that a property with a 58% slope have a minimum width of 194 feet.

Therefore, as recommended above, this item must be continued until the January 26, 2022, Planning Commission meeting where the Commission will be able to act on the entire project and all the required discretionary permits at one hearing.

Retaining Wall Height Variance

A twenty-four-foot-long section of the wall constructed to create the back patio area for the house will exceed the permitted 6-foot retaining wall height maximum [Town Code § 17.044.080(B)(2)]. The wall will be below the grade of the surrounding hillside and while the upper portion of the wall may be visible to someone standing directly next the windows of the adjacent residence to the west at 74 Tamalpais Road, it will not be visible from the structure to the east at 63 Tamalpais Road.

The 554 square-feet of stepped rear patio will provide most of the available out-door living space for this steep slope and warrants the granting of the retaining wall height

variance to allow a 24-foot section of the wall to exceed the 6-foot retaining wall height maximum to a maximum of 11-feet tall at the south-east corner.

Encroachment Permit

The driveway retaining walls on the north and south sides of the driveway/parking area will encroach into the Tamalpais Road right-of-way and require the approval of an encroachment permit by the Planning Commission [Town Code § 12,32,919(A)]. 14-foot 6-inches of the south-east wall will encroach into the right-of-way while the northern-east wall will encroach 1-foot 6-inches. The granting the encroachment permit by the Planning Commission to allow the construction of the walls is warranted because it is the only way to construct the on-site parking required for a single-family residence in accordance with Town Code sections 17.052.030(A)(1)(b), 17.052.030(A)(2) and 17.052.040(B)(1) and (2).

Tree Removal Permit

Construction of the project will require the removal of 5 trees subject to the Tree Ordinance removal regulations requiring a tree removal permit from the Planning Commission – 3 bay trees and 2 oak trees.

The applicants obtained a recommendation from the Fairfax Tree Committee for the removal of 4 of the trees (3 bays and 1 oak) within the house structure footprint on 10/25/21 (Attachment E – Tree Committee recommendation action letter). At that time, the design called for a smaller rear patio area. The current submittal with a stepped patio running along the length of the rear of the structure will require the removal of one additional oak tree (see page A1.0 of the project plan set, the oak tree marked for removal outside the foundation footprint at the center of the site). No recommendation was sought or obtained for this fifth oak tree from the Tree Committee prior to this hearing. Therefore, the Commission can act on the tree removal permit for the 4 trees considered by the Tree Committee and recommended for removal on October 25, 2021. A Tree Removal Recommendation application must be submitted as soon as possible so that it can be considered at the January 23, 2023, hearing so the removal permit can be acted upon by the Planning Commission along with rest of the required discretionary permits including the driveway width variance (see explanation below).

Driveway Width Variance

The Driveway Ordinance shifting authority for granting exceptions to the 20-foot driveway width limitation from the Town Council to the Planning Commission was introduced at the November 16, 2022, Town Council meeting, had its second reading and was adopted at the December 7, 2022, Town Council meeting, and will go into effect on January 6, 2023. The proposed residential development proposes a driveway that will range from approximately 48 to 53-feet in width in the right-of-way and requires a driveway width variance which has been scheduled for the January 26, 2023, regular Planning Commission meeting.

Northern Spotted Owl

The site is located within ¼ mile of a known Northern Spotted Owl nesting site, so staff

has included the following standard condition in the attached Resolution No. 2022-27 approving the project, while conditioning construction during the Northern Spotted Owl nesting season from February 1st through July 31st:

- Prior to issuance of the building permit the applicant shall provide the Town with a Northern Spotted Owl survey that will include identification of any nesting sites within ¼ mile of the project site, and recommendations for measures that will become conditions of project approval to minimize the negative impacts of the construction on the birds. Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1st through July 31st unless a plan for allowing construction activities during this period is submitted by a qualified spotted owl biologist and approved by the State with documentation of the approval provided to the Town, prior to initiating any construction activities. All requirements listed in the plan, including potential on-site monitoring, must always be met by the applicants.

Other Agency Department Project Specific Comments/Conditions

Ross Valley Fire Department (RVFD)

The site is in the Wildland Urban Interface (WUI) Zone and the structure will be required to have a sprinkler system installed throughout the building that complies with the requirements of the National Fire Protection Association 13-D standard and local standards. For a complete list of the conditions including the standard fire conditions see the attached Resolution No. 2022-27 (Attachment A). Please note that the project already has an approved vegetative management plan (see project plan set, page A2.0.1).

Marin Municipal Water District (MMWD)

MMWD did not have any specific conditions for this project but included the following notice in their comment letter:

“Please note that on April 20, 2021 the District’s Board of Directors declared a water shortage emergency and adopted numerous water conservation measures set forth in Ordinances 449, 450, 453 and 455, which may be viewed at www.marinwater.org/waterrules. Additional conservation measures are currently being considered and existing drought conditions may impact the District’s ability to provide new water service connections and larger water meters during this water shortage emergency. Consequently, while this letter sets forth the current connection requirements for this project, this letter shall not be considered a guarantee of future water service or serve as a limitation on any future water restriction(s) which may be adopted by the District, including but not limited to restrictions on new water service connections or additional conservation measures. Please visit Marinwater.org for *developments that may impact new or expanded water service connections during this water shortage emergency.”

Currently, MMWD requires that a project have a building permit before they issue permits for a new water hook-up. Staff will be communicating with MMWD to determine

how to avoid issuing a building permit for new construction, and then ending up with an uninhabitable building in the circumstance MMWD has put a water meter moratorium into effect after the issuance of said building permit.

The rest of the standard MMWD conditions of project approval can be viewed in their entirety in attached Resolution No. 2022-27 (Attachment A).

Ross Valley Sanitary District, Fairfax Public Works, Fairfax Building Department

The Town received only the standard conditions applicable to every project from the Ross Valley Sanitary District, the Fairfax Public Works Department, and the Fairfax Building Department. The standard conditions can be viewed in attached Resolution No. 2022-27 (Attachment A).

RECOMMENDATION

Conduct the public hearing and close the public hearing.

Move to continue application number 22-29 until the January 26, 2022, Planning Commission meeting and direct the applicant to;

1. Apply for a tree removal permit for the removal of the oak tree located in the back patio by January 5, 2023, in order for the matter to be scheduled for the January 23, 2022, Tree Committee meeting to obtain a tree removal recommendation prior to the January 26, 2023, Planning Commission meeting.
2. Complete a Side-Yard Setback Variance form and submit it no later than January 5, 2023.
3. Address any recommendations and/or modifications to the plans, if there are any, from the Commission and submit plan revisions no later than January 5, 2023.

ATTACHMENTS

Attachment A - Resolution No. 2022-27

Attachment B - DAC 7/21/22 Geotechnical report, DAC 8/2/22 Temporary Excavation Shoring report, 7/27/22 HEI Grading and Drainage Report, Construction Staging Plan, Architects responses to staff's 9/10/22 incomplete letter

Attachment C - Town Engineer's 11/1/22 e-mail and 11/1/22 project completeness letter

Attachment D - Applications Response to Design Review Criteria document with photos of residences in the neighborhood near the proposed project site

Attachment E - Tree Committee 10/26/21 letter of action with attached tree removal application form

PROJECT PLAN SET