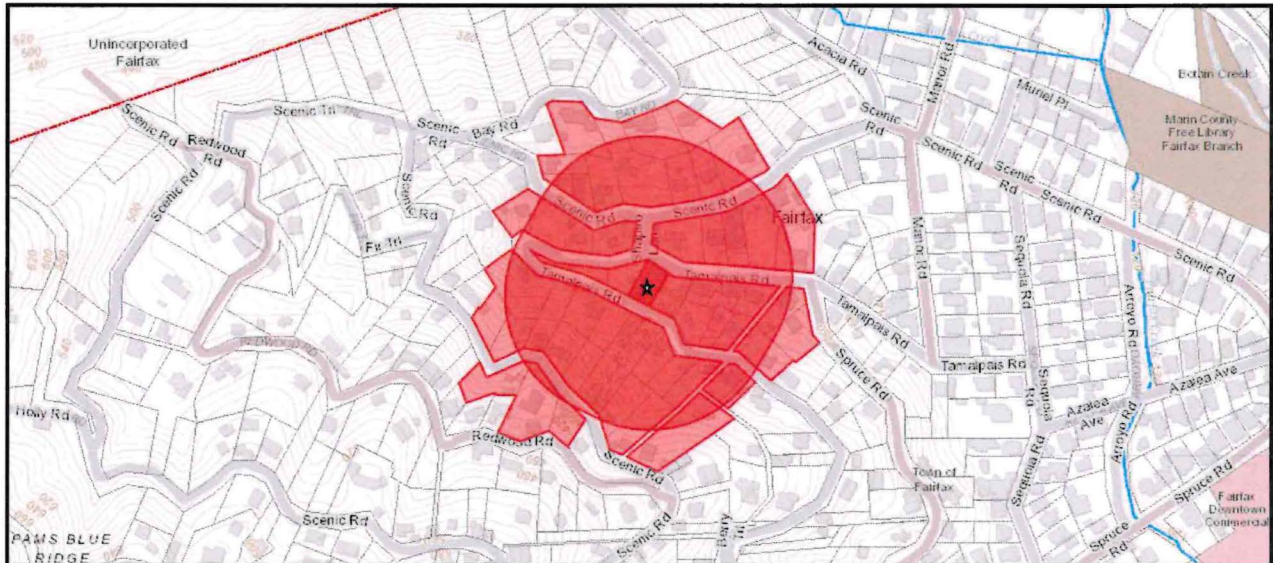


**TOWN OF FAIRFAX  
STAFF REPORT ADENDUM  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** March 16, 2023  
**FROM:** Linda Neal, Principal Planner  
**LOCATION:** 67 Tamalpais Road; Assessor's Parcel No. 001-123-03  
**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, Revocable Encroachment Permit, Tree Removal Permit and Retaining Wall Height Variance, Driveway Width Variance, Variance to Allow the Required Uncovered Parking in the Combined Side-yard Setback 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 revised project includes construction of a 28 foot 6 inch tall, three story structure with a 256 square-foot, one car garage (includes storage closet), and 485 square-foot, studio accessory dwelling unit (ADU) on the first floor, an 824 square-foot, second story

(includes interior stairway square footage) with two bedrooms and two bathrooms and a shared closet that will contain a stacked washer and dryer, and a 640 square-foot, third story with a great room including the living room and the kitchen with a separate dining room and half bathroom. The revised project has reduced the size of the garage by 59 square-feet, the studio ADU by 12 square-feet, the second floor by 144 square-feet, and has decreased the square footage of the third floor by 164 square-feet.

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 revised design includes a 52 square-foot covered deck at the front of the structure beneath the upper floor dining room and off the master bedroom (reduced from 60 square-feet) on the second floor, and a 198 square-foot deck at the front of the third floor accessed from the dining room (an increase of 48 square-feet). The excavated, three level, patio area that wrapped around the east and south sides of the structure providing 554 square-feet of outdoor living space included in the original design has been replaced. The revised plans include a two level, patio that still wraps around the east and south side of the upper floor like the patio in the original plan submittal, but has been reduced to 255 square-feet in area. The reduced patio area has reduced the retaining wall height necessary to create the back patio from 9-feet to 8-feet 6-inches from where the wall is the tallest (the wall will vary from 3-feet 6 inches up to 8-feet 6-inches in height but will only be the maximum height for several feet).

The two, 9-foot by 22-foot, parallel parking spaces in the revised plans have been retained in the same location, located 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) although the waste bin location has been shifted south on the site and is no longer flush with the front wall of the structure (See plan set page A2.1).

Please note that staff, the Town Engineer, and the applicant agreed that the relocation of the house, shifting it to the east five feet did not warrant updated preliminary plans for the drainage, landscaping and vegetation management plans.

## **BACKGROUND**

The approximately 5,658 square-foot site is a street-to-street 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 early 1970's the owner of the site granted easements to the two properties located upon the upper, south side of the site at 118 and 120 Tamalpais Road for the construction of covered parking decks (carports). The two sites which both slope up steeply across the road from the section of Tamalpais Road that runs along the back side of the project site were developed with single-family residences in the 1950's with the covered parking decks built in the 1970's.

This project was continued from the December 15, 2022, Planning Commission meeting. At their December 15, 2022, meeting, the Commission directed the applicants to address the following before they would continue the hearing on the project (***how the applicant has addressed the requests below follows the item in bold and italicized font***):

1. Submit a tree removal application as soon as possible but no later than December 20, 2022, including a site plan identifying the trees that were already recommended for approval by the Tree Committee and the date the recommendation was made, and identifying with an "X" the one remaining oak tree yet to be considered by the Tree Committee for recommendation to the Planning Commission.

***The applicants submitted the required Tree Removal Recommendation application on December 16, 2022, and the Tree Committee reviewed it recommended the Commission approve the requested tree removals at their January 23, 2023, meeting.***

2. Complete the enclosed Side-yard Setback Variance form including the findings sections on application pages 12 and 13.

***The applicant submitted the required variance application plan pages on December 16, 2022.***

3. Revise the perspective/rendering drawings in the "Response to Design Review Criteria" submittal that was attachment D to the staff report and plan page A5.0 to accurately reflect the proposed structure massing and relationship to the surrounding topography.

***See #4 below.***

4. Revise the perspective on page A7.0 of the plans to include the structure at 73 Tamalpais Road accurately depicting the relationship to both the two-story garage/ADU structure and the main residence as well as to the structure at 73 Tamalpais Road.

***The applicants have revised plan page 7 to accurately reflect the structure massing and relationship to the surrounding topography as well as the structure at 73 Tamalpais Road. The revised project plan set is dated received by the Town on January 17, 2023, and is Attachment F to this report.***

At the January 26, 2023, hearing the Commission had the following comments and recommendations for potential modifications to the project plans:

1. The color palette is appropriate as long as the gray used for the first-floor exterior walls is as depicted on the color board (Kelly Moore Brilliant Silver) and not as shown in the color elevation on page A7.0 where the first floor painted stucco walls appear almost white.
2. The house needs to be moved either to the center or towards the center of the site although there was no consensus on exactly how far the house needs to be moved. Commissioners indicated that locating the house the minimum 5-feet from northwest side property line and five feet from the two residences at 73 Tamalpais Road that are located on that property line and maintaining the larger 15 foot setback from the southeastern side property line where 63 Tamalpais Road maintains approximately at 35-foot setback from that side property line was not an equitable location. Concern was also expressed that the eaves of the proposed structure would be out of compliance with fire codes since they would be located approximately 2-feet from the eaves of the 73 Tamalpais Road Accessory Dwelling Unit (ADU).
3. A majority of the Commission felt the design would fit into another community more than its proposed Fairfax neighborhood that is filled with small, single-family residential structures, many that were built between 1910 and 1930. They cited the historic nature of the neighboring structures and unanimously agreed that incorporating historical features found throughout the immediate neighborhood would help the structure fit in to the surrounding development better.
4. The Commission took exception to the staff's determination that because the existing parking decks on the site were built to serve two other residences in the neighborhood, they should not be counted towards the lot coverage and/or FAR of this project. Staff advised at the meeting that the lot coverage and FAR calculations would be revised and if variances are required staff would re-notice the item prior to the next hearing should it be determined one or both are required for the development.

## 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	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., 2 stories
Proposed	10 ft.	1 ft.	11 ft.	10 ft. & 15 ft.	House 25 ft., parking 16 ft.	.39 (.39 with garage)	.30	28.5 ft., 3 stories

The FAR Calculation includes square-footage of all living space and does not include the garage square footage or the existing carport square footage per Town Code § 17.008.020, Definition of Floor area, which the collective Department of Planning and Building Services Staff has interpreted to mean that areas open to the air, such as the existing carports, without solid exterior walls, are not counted toward FAR and section 17.136.030(A) which excludes 500 square-feet of garage space for a single-family residence and 800 square-feet of garage space for a duplex.

The Lot Coverage Calculation includes the footprint of all structures and impervious surfaces. For this project the house footprint, the footprint of both existing carports and the rear patio square footage has been counted in the Lot Coverage percentage calculation. Driveways do not count towards the lot coverage calculation per Town Code § 17.008.020, Definition of Lot Coverage, which exempts driveway from the lot coverage calculation.

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, and 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 irregularly 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. The original submittal located the house where construction would require the least amount of excavation in accordance with the purpose section of the Hill Area Residential Development Ordinance [Town Code § 17.072.010(B)(1)]. In the original location, 5-feet from the house at 73 Tamalpais Road, the excavation amount to develop the site was 867 cubic yards to build the house, install the much larger rear patio and do the trenching for supply lines. Shifting the house to the east to increase the setback from 73 Tamalpais Road to 10-feet has increased the excavation amount to approximately 1,137 cubic yards with an off-haul of 1,137 cubic yards. Note that the revised excavation amount is based on the revised plans where the total house and rear patio areas have been decreased in size from the original plan submittal. The revised plan complies with the FAR 40% limitation and maintains an FAR of 39% [34% with the garage square footage eliminated as allowed by Town Code 1717.136.030(A)], and the 35% Lot Coverage limitation maintaining a Lot Coverage, including the two carports at the rear of the site, of 35%.

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

1. Revised Project Plan Set dated March 2, 2023, 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.
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.

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 eighteen 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 Engineer. The shoring permit and definite bedrock depth determinations has been determined to be an acceptable method for the project to move forward to the Planning Commission public hearing on the 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. The drainage plan has not been updated to reflect the revised house location.

Staff spoke with the Town Engineers and explained the revised plan changes and they indicated that their original recommendation that the revised plans can proceed and that the house can be built, with their review of the building permit plans, without any further preliminary project engineering information.

### 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/C arport	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 TAMALPAIS RD.	5,718	1,464 & 485 JADU	Residence - + studio	2.5 – residence, 1 - studio	256	.34 (.39 with garage)



The revised 39% FAR (34% without the garage) that will be maintained by the revised main residence in its new location 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 considering that the development will provide two living units. The .34 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 and will not exceed development densities found throughout the subdivision which include duplexes that were built prior to 1973.

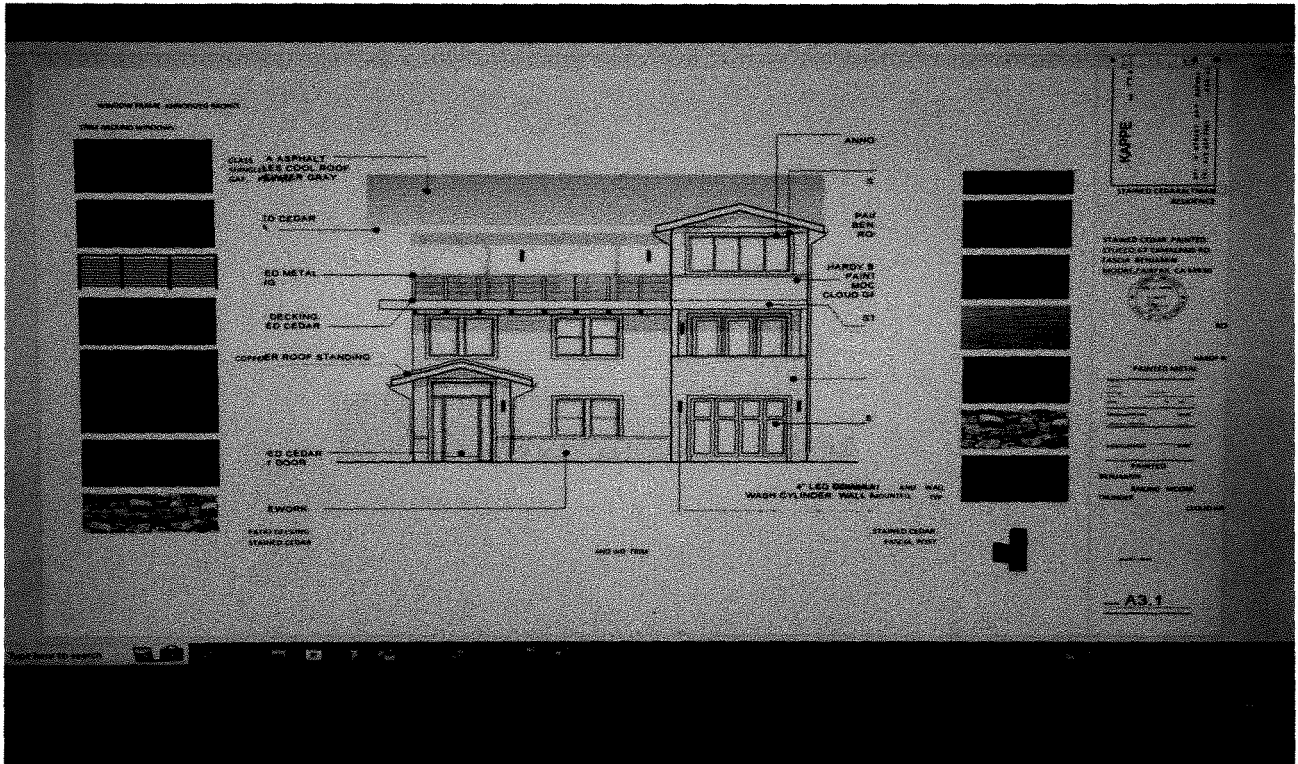
The applicants have provided photographs of the varied architectural styles found throughout the neighborhood which can be viewed in Attachment C.

### **Design Review Permit**

The proposed revised residential structure will maintain a 10-foot setback from the west side property line and a 15-foot setback from the east side property line.

Only one window is proposed on the west side of the structure where it is closest to the ADU and residence at 73 Tamalpais Road. This window and the other numerous windows of various shapes and sizes proposed on the north, east and south sides of the structure will have anodized bronze framing.

The second-floor deck that originally ran the entire width of the building has been limited to the east side of the residence with the relocated dining room stacked on top of one of the bedrooms on the second floor and above the one car garage on the first floor. The design no longer includes any exterior stucco siding. The siding will be horizontal Hardy Board siding painted a light grey (Benjamin Moore, Thunder Cloud Gray, 2124-40) and portions of the front façade will have a stone façade similar in color and texture to the existing wall along the adjacent section of Tamalpais Road and the rear access stairway to 63 Tamalpais Road. The upper roof peak now runs east west and the roof pitch over the dining room and over the front entryway mirror the roof peak of the two story garage/ADU structure at 73 Tamalpais Road. The fascia, second floor porch support posts, roof trim, decking and front door will be stained cedar. The roof will be Class A asphalt shingles cool roof in light grey (pewter gray). Deck railings will be metal painted a bronze color to match the roof and window trim. A copper standing roof is proposed over the front entryway.



The rear windows and east side windows look out over the rear patio and east side patios while the front windows and deck look 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 over 40-feet from the neighboring residence at 63 Tamalpais Road (owned and resided in by the applicant at this time).

The structure exterior is heavily articulated. On the eastern side of the house, a 24-foot-wide section steps back up the hillside. The west side of the structure consists of a 13-foot-wide section where the three floors are located on top of each other. The front anodized copper entryway roof, second floor porch, and the front deck on the east side of the third floor of the structure, in addition to the different peak directions of the main upper floor from the roof peak direction over the entryway and over the dining room increase the articulation of the structure and minimize its mass when viewed from the street.

See the elevations on page A3.0 and the colors and material information on page A3.1 of the project plan set for a visual depiction of the exterior of the proposed structure.

Five 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 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](mailto: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 residential structure in the revised plans maintains the required 35-foot combined front/rear setback and it is only the covered parking decks at the top of the site that 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**

The proposed uncovered parking spaces sited parallel to 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 maintaining a combined side-yard setback of 16 feet instead of the required 20-feet.

Town Code Chapter 17.052, Off-Street Parking and Loading Requirements, section 17.052.020(A) allows the Commission to grant variances to the amount, dimensions, and location of required parking.

The steep slope of the site, narrow width, and location of existing parking decks for the residences south of the rear property line at 118 and 120 Tamalpais Road are the features that warrant the granting of the variance to allow the parallel parking spaces for the new residence to encroach 4-feet into the required 20-foot combined side-yard setback area. While the house could be shifted to the south with the parking located

perpendicular to the proposed structure, this would put the house very close to the existing parking decks and would significantly increase the amount of excavation required to develop the site while the intent of the HRD Ordinance, Town Code § 17.072.010(B)(2), is to minimize grading in hillside areas.

### **Retaining Wall Height Variance**

An approximately 13-foot section of the wall constructed to create the revised back patio area for the house will exceed the permitted 6-foot retaining wall height maximum by approximately 2 ½ feet reaching 8 ½ feet in height, a reduction in the maximum height from the original submittal of ½ foot. The rest of the walls are either at 6-feet in height or below [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 73 Tamalpais Road, it will not be visible from the structure to the east at 63 Tamalpais Road.

The approximately 255 square-foot rear/side patio is 299 square-feet smaller than the originally proposed 554 square-feet of stepped rear patio. The patio, along with the two front decks 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 approximately a 13-foot section of the wall to exceed the 6-foot retaining wall height reaching a maximum 8 1/2-feet tall at the south-east corner.

### **Revocable 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 a revocable encroachment permit by the Planning Commission [Town Code § 12,32,919(A)]. 14-feet 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 four trees subject to the Tree Ordinance removal regulations requiring a tree removal permit from the Planning Commission – 3 bay trees and one oak tree.

The applicants obtained a recommendation from the Fairfax Tree Committee for the removal of the four trees (three bays and one oak) within the house structure footprint on 10/25/21. The original submittal that included the larger rear deck was going to require the removal of one additional oak tree for total of five trees. The current submittal with smaller patio no longer requires the removal of tree #3 shown on page A1.0 of the project plan set (also see plan page A2.1 showing tree #3 remaining).

No additional trees need to be removed to accommodate the revised plans being reviewed at this meeting.

### **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 went into effect on January 6, 2023.

The proposed residential development depicts a driveway that will range from approximately 48 to 53-feet in width in the right-of-way and requires a driveway width variance. The wider driveway width is being driven by the steep property slope and location of the two parking decks located at the upper, south side, of the site resulting in the two uncovered parking spaces proposed for the new house having to be located parallel to Tamalpais Road at the north side of the site. The location of the proposed house and new parking and the two uncovered parking spaces parallel to the road are necessary to maintain the greatest distance between the proposed house and the existing parking decks while also minimizing the excavation required to allow the site development with the three parking spaces required for a single-family residence [Town Code § 17.052.030(A)(1)(c) and § 17.052.030(A)(2)].

### **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. 2022-37 approving the project, while conditioning construction during the Northern Spotted Owl nesting season from February 1<sup>st</sup> through July 31<sup>st</sup>:

- 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 1<sup>st</sup> through July 31<sup>st</sup> 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. 2022-37 (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](http://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](http://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 should MMWD 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. 2022-37 (Attachment A).

**Ross Valley Sanitary District, Fairfax Police Department, 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. 2022-37 (Attachment A). Staff received no comments from the Fairfax Police Department.

**RECOMMENDATION**

1. Conduct the public hearing.
2. Move to approve application number 22-29 by adopting Resolution No. 2022-37 setting for the findings and conditions for the approval of a Hill Area Residential Development (HRD), Design Review, Excavation, Revocable Encroachment and

Tree Removal Permits and Retaining Wall Height Variance, Driveway Width Variance, Variance to Allow the Required Uncovered Parking in the Combined Side-Yard Setback and Combined Front-Rear Setback Variance for the Construction of a Single-family Residence with Attached Accessory Dwelling Unit and Garage at 67 Tamalpais Road.

**ATTACHMENTS**

Attachment A - Resolution No. 2022-37

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 project completeness letter dated 11/1/22 and e-mail dated 11/1/22

Attachment D – photographs of houses in the neighborhood

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

Attachment F – Letter from applicant date 3/1/23

Attachment G – Project Plan Set dated received by the Town on March 2, 2023

## RESOLUTION NO. 2022-37

### **A Resolution of The Fairfax Planning Commission Approving Application No. 22-29 for a Hill Area Residential Development (HRD), Design Review, Excavation, Revocable Encroachment and Tree Removal Permits and Retaining Wall Height Variance, Variance to Allow the Required Uncovered Parking in the Combined Side-Yard Setback and Combined Front-Rear Setback Variance for the Construction of a Single-family Residence with Attached Accessory Dwelling Unit and Garage at 67 Tamalpais Road**

**WHEREAS**, the Town of Fairfax received an application from Stephen Altman to construct a 28 foot 6 inch tall, three-story structure with a 256 square-foot, one car garage and 485 square-foot, studio accessory dwelling unit (ADU) on the first floor, 824 square-foot, second story (includes interior stairway square footage) that includes two bedrooms and two bathrooms with a shared closet that will contain a stacked washer and dryer, and a 640 square-foot third story with a great room providing a living room area, dining room area and the kitchen with a half bathroom; and

**WHEREAS**, the Commission held a duly noticed public hearings on the proposed project on December 15, 2022, January 26, 2023, and March 16, 2023; and

**WHEREAS**, after holding the three public hearings 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, Revocable Encroachment and Tree Removal permits and Retaining Wall Height Variance, Variance to allow Parking within the Required Combined Side-yard Setback, and Combined Front-Rear Setback Variance; 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.

**ATTACHMENT A**



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 providing two living units and complying with the Town parking standards providing three on-site parking spaces.
3. Based on the soils report findings, the site can be developed without geologic, hydrologic, or seismic hazards.
4. Vehicular access and parking are adequate.
5. The proposed development harmonizes with the surrounding residential development, meets the design review criteria, and does not result in the deterioration of significant view corridors.

**Excavation Permit (Town Code § 12.20.080)**

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

1. The health safety and welfare of the public will not be adversely affected;
2. Adjacent properties will be adequately protected by project investigation and design from geologic hazards as a result of the work;
3. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
4. The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;
5. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
6. Natural landscaping will not be removed by the project more than is necessary; and
7. The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes (Town Code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1<sup>st</sup> through April 1<sup>st</sup> of each year).

**Revocable Encroachment Permit (Town Code §12.32.010)**

The driveway wing walls that project into the Tamalpais Road right-of-way will not use or obstruct any developed section of the road and the area is not currently being used by the public.

**Design Review (Town Code § 17.020.040)**

1. The project depicted in the plans submitted to the Town on March 2, 2023, complies with the Design Review Criteria set forth in Town Code § 17.020.040.

**Combined Sid-Yard Variance and Combined Front-Rear Setback Variance (Town Code § 17.028.070)**

1. The steep, 58% slope of the site and the close proximity of the existing parking decks at the rear of the site are the site features that warrant granting the requested Combined Side-yard and Combined Front-Rear Setback Variances to construct the required covered and uncovered parking spaces to support the new single-family residence. The strict enforcement of the required setback backs would deprive the applicant of the ability to improve the on-site parking required to allow for construction of a single-family residence on this RS-6 single-family residentially zoned site.
2. Most properties in town that are hillside sites have some portion of their required spaces and/or parking structures within one or more required setbacks due to the Town roads not being developed to the entire width of the road easement. Due to the topography and narrow width of the developed portion of Tamalpais Road and the existing parking decks for 118 and 200 Tamalpais Road, the requested Combined Side-yard and Combined Front-Rear Setback Variance for portions of the uncovered parking spaces and front driveway retaining walls to encroach into the required side and front-rear setbacks will not be a grant of special privilege.
3. The strict application of the setback regulations would render the site undevelopable in compliance with the Town parking regulations and/or would require a significant increase in the amount of excavation required for development of the site.
4. The proposed garage, uncovered parking and driveway wing walls that will encroach into the required Combined Side-yard and Combined Front-Rear setbacks will not obstruct the visibility of passers-by utilizing the Tamalpais Road right-of-way or conflict with traffic patterns in the area. Therefore, the granting of the variance will not be detrimental to the public health, welfare and safety or injurious to other property in the vicinity in which the property is situated.

**Retaining Wall Height Variance**

1. The steep 58% slope is the feature applicable to the property that warrants the granting of the Retaining Wall Height Variance for a 13-foot long section of the

rear patio wall to reach approximately 8 ½ feet to create a level patio space to provide outdoor living space for the residents.

2. The variance or adjustment will not constitute a grant of special privilege because the section of wall that will reach 8 ½ -feet in height will be below the natural grade and visible primarily to the residence of 73 Tamalpais Road.
3. The strict application of this title would result in make it difficult for the owners to create outdoor living space that could be accessed directly from the upper floor of the residence.
4. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated because the wall is below grade and will not obstruct any of the neighboring residences views.

### **Tree Removal**

Three Bay trees and one oak tree proposed for removal within the structure footprint have been reviewed by the Tree Committee who has recommended that the Commission approve the requested removal permit. Therefore, the project is in compliance with all the considerations listed in Town Code 8.36.060(B)(1 through 7) of the Tree Ordinance, Town Code Chapter 8.36.

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

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

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; revised Geotechnical Investigation Report by DAC Geotechnical, Structural, Civil Engineering dated June 21, 2022; Temporary Shoring Report by DAC Geotechnical, Structural, and Civil Engineering dated August 2, 2022; and the Grading and Drainage Report by Randall Harrison, P.E. with Harrison Engineering Inc. dated July 27, 2022.

The project is subject to the following conditions of approval:

1. Prior to issuance of any building permit for this project an initial and separate shoring permit shall be submitted prior to issuance of the building permit for the construction of the house and the shoring permit shall be reviewed and approved by the Town Engineer prior to issuance.

2. The shoring system design shall include additional boring to the full extent of the anticipated excavation to inform the proposed shoring system design.
3. 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.
4. 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. If the Planning Director determines the changes are significant enough to require a modification of the originally approved discretionary permits, the modification approvals shall be obtained prior to issuance of the project building permit.
5. 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
6. 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).
7. 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.
8. 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.

9. 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.
10. 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.
11. Submit 3 copies of the recorded record of survey with the building permit plans.
12. 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.
13. 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.
14. Tree permits must be kept on the job site while the trees are being removed and the owner must verify that the tree company performing the approved tree work has a current Fairfax Business License.
15. 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.
16. 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 Planning Commission conditions and required engineering improvements have been complied with including installation of landscaping and irrigation prior to issuance of the certificate of occupancy. The Planning Department Staff 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.
17. Excavation shall not occur between October 1st and April 1<sup>st</sup> of any year. The Town Engineer has the authority to waive this condition depending upon the weather.
18. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them, daily, if necessary.
19. Construction shall be prohibited during the Northern Spotted Owl nesting season from February 1<sup>st</sup> through July 31<sup>st</sup>, 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 onsite monitoring, must always be met by the applicants.

20. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 22-29. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director or the Planning Commission. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 22-29 will result in the job being immediately stopped and red tagged.
21. Any damages to the public portions of Tamalpais Road, Scenic Road, Shapiro Way, Azalea Avenue, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
22. 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.
23. 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.

24. 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.
25. A separate Site Shoring permit shall be reviewed and approved by the Town Engineer prior to being issued by the Building Department. The engineering peer review shall be at the expense of the applicant.
26. The project shall be inspected by the Building Official and Project Planner prior to issuance of the occupancy permit for the residential structure for compliance with the approved project plans.

#### **Town Engineer**

27. All the recommendations contained in the 6/21/22 DAC Engineering report shall be conditions of the project approval with their inclusion in the project building permit plans to be verified by the project Geotechnical Engineers either by their signing and stamping the applicable civil engineering plan pages or in a signed stamped written communication verifying compliance with their recommendations.

#### **Ross Valley Fire Department**

28. All vegetation and construction materials are to be maintained away from the residence during construction.
29. Hydrant flow and location are to be identified before construction begins.
30. 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.
31. 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.
32. 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.
33. 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.

34. 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.
35. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
36. 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)**

37. A copy of the building permit must be provided to the district along with the required applications and fees.
38. The foundation must be completed within 120 days of the date of application.
39. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
40. Any landscaping plans must be reviewed and approved by the District.
41. Backflow prevention requirements must be met.
42. 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.
43. All the District's rules and regulations in effect at the time service is requested must be complied with.

**Ross Valley Sanitary District (RVSD)**

44. A sewer connection permit and a side sewer connection permit are required for all work outside the new building footprint.
45. Fees will include sewer capacity charges as well as permit fees.
46. 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.

47. Include a sewer cleanout and backwater protection device within 2-feet of the building foundation.
48. The Ross Valley Sanitary Standard Notes shall be shown on the submitted plans 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.
49. 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.
50. 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**

51. 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.
52. 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.
53. 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.
54. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes.
55. 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.
56. The parking, driveway, drainage improvements shall be completed at 67 Tamalpais Road and shall be inspected and approved by the Building Official/Public Works Director prior to the project final inspection.

#### **Building Official**

57. Prior to the start of construction, the surveyor shall mark the western side property line and the front property line in the field and shall meet the Building Official for a preconstruction inspection once the markings are in place.

58. After the foundation framing and prior to the foundation concrete pour, the contractor shall call for a second inspection by the Building Official to ensure that the proposed setbacks are being maintained.

**Miscellaneous**

59. 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.

60. 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 upright 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.

61. 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.

**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 (HRD) Permit, Design Review Permit, Excavation Permit, Revocable Encroachment Permit and Tree Removal Permit and Retaining Wall Height Variance, Variance to Allow the Required Uncovered Parking in the Combined Side-Yard Setback and Combined Front-Rear Setback Variance for the Construction of a Single-family Residence with Attached Accessory Dwelling Unit and Garage at 67 Tamalpais Road 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 16th day of March 2023 by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Chair Cindy Swift

Attest:

\_\_\_\_\_  
Linda Neal, Principal Planner