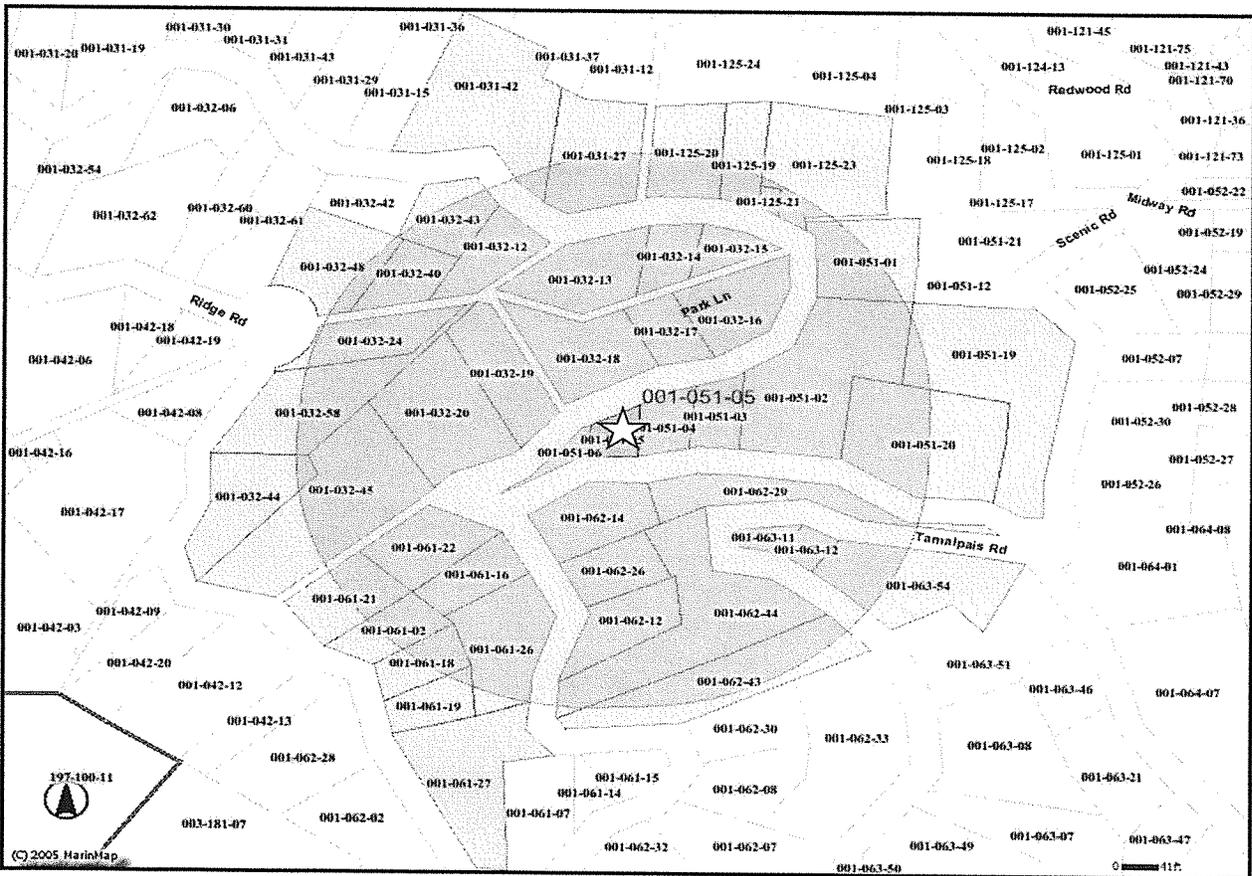


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: August 21, 2014
FROM: Jim Moore, Director of Planning and Building Services
 Linda Neal, Principal Planner
LOCATION: 402 Scenic Road; Assessor's Parcel No. 001-051-05
ZONING: Residential Single-family RS 6 Zone
PROJECT: Reconstruction/expansion of vehicle and pedestrian decks
ACTION: Use Permit and Setback Variances; Application # 14029
APPLICANT: Leo den Ouden
OWNER: Matthew and Jennifer MacDonald
CEQA STATUS: Categorically exempt, § 15301(e), 15303(e) and 15305(a)



402 SCENIC ROAD

BACKGROUND

The 2,800 square foot site is a street to street lot located at a hairpin turn in Scenic Road and it has a 45% slope. The 700 square foot residence was constructed in 1961. The site is only 50 feet wide.

DISCUSSION

The applicant proposes reconstruction and expansion of a 300 square foot, one car parking deck/carport into a 387 square foot, two car parking deck/carport and 236 square foot expansion of the rear pedestrian deck resulting in it being 371 square feet in size.

The project complies with the regulations set forth in the Residential Single-family RS 6 Zone as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft	12 ft	35 ft	5 ft & 5 ft	20 ft	.40	.35	28.5 ft, 2 stories
Existing	14 ft	6 ft	20 ft	5 ft & 3 ft	8 ft	.25	.37	21 ft, 1 story
Proposed	same	4 ft	18 ft	2 ft & 3 ft	5 ft	Same	.40	same

Expansion of the parking deck will result in the new deck maintaining a 2 foot setback from the west side property line and result in the combined side setback decreasing from 8 feet to 5 feet. The rear pedestrian deck expansion will result in a reduction of the minimum rear setback from 6 feet to 4 feet and bring the combined front/rear setback from 20 feet to 18 feet. The project will also increase the lot coverage of the site from 37 percent to 40 percent. Please note that it is the parking deck/carport, an impermeable structure, that is resulting in the increased lot coverage, not the expansion of the permeable pedestrian deck (Town Code §17.008.020, Definition of Lot Coverage).

The project requires the following discretionary permits:

A Use Permit: Town Code §17.080.050 requires that a use permit be obtained prior to any modification or expansion of a site failing to meet the minimum lot size or width requirements based on slope. The site has a slope of 45% and the parcel would have

to be 37,000 square feet in size and 155 feet wide to meet the code requirements. It is only 2,800 square feet and 50 feet wide so the project requires a Use Permit.

Setback and Lot Coverage Variances:

Town Code § 17.080.070(B) sets forth the minimum and combined setback for properties in the RS 6 Zone as indicated in the table above. Town Code § 17.040.010 limits lot coverage for residential properties to 35%.

Both the parking deck/carport and pedestrian deck will encroach into the combined side setback, the parking deck/carport will encroach into the minimum 5 foot east side setback and the pedestrian deck will encroach 2 additional feet into the minimum rear and combined front/rear setback. The parking deck/carport will increase the lot coverage from 37 to 40 percent.

The expansion of the parking deck will benefit both the property owners and the neighborhood by providing more off street parking in a neighborhood where parking is very limited with some of the residences in the immediate area having no private parking and relying on public street parking.

The site also has very limited usable outdoor area due to its extremely small size and very steep slope. The proposed pedestrian deck expansion will provide the residents additional level outdoor space without impacting/altering the natural topography of site without terracing/excavating/back filling level areas.

The proposed project will have no significant impact on neighboring properties extending out towards the east side of the site where the property abuts a variance lot and the street.

The applicants have provided an arborist report indicating that the oak to the west of the pedestrian deck is diseased and should be removed and that digging and root pruning in the area of any footings/foundations should be done by hand (Exhibit A).

OTHER AGENCY AND DEPARTMENT COMMENTS

Ross Valley Fire Department

1. 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 sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
2. Carbon monoxide alarms shall be provided.

3. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. If not already installed, the District requires that the sided sewer be equipped with an appropriate backwater prevention device.
2. If the project is approved the applicant shall contact the District to arrange for a District Inspector to approve the existing installation or to approve plans for the proposed installation.

Fairfax Public Works Department

The new driveway approach will have to be installed to Marin County standards.

Fairfax Police and Building Departments

The Fairfax Police Department and the Building Department had no comments on the project.

RECOMMENDATION

Move to approve application # 14-29 based on the following findings and subject to the following conditions:

Recommended Use Permit Findings (Town Code §17.032.060)

1. The proposed deck and carport will maintain similar setbacks and result in a residence similar to others found in the adjacent neighborhood on similar sized and sloped parcels. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

2. The proposed project will maintain the greatest setback from the property as is possible, while still providing usable outdoor area and bring the parking into compliance with the Town Code. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. The project will not change the single family character of the neighborhood and will bring the site more into compliance with the parking regulations. Therefore, approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
4. Approval of the use permit will result in equal or better development of the premises than would be the case if the owners altered the topography of the site by excavating and backfilling level outdoor areas. Therefore, said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Recommended Setback and Lot Coverage Variance findings

1. The very small 2,800 square foot size, narrow 50% width and 45 % slope are the special circumstances that make the applicant's compliance with the setback and lot coverage limitations extremely difficult. The strict applications of these regulations will deprive the applicant of the ability to rebuild and make minor improvements to their parking structure and home, privileges enjoyed by other property owners in the vicinity and under identical zone classification.
2. The variance will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.
3. The strict application of this title would result in excessive or unreasonable hardship because the owners would be unable to make any improvements to their site.
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 project extends to the southwest of the house towards the street and where there are no adjacent residences.

Recommended Conditions

1. This approval is limited to the development illustrated on the plans prepared by Leo den Ouden, dated August 6, 2014, pages A-1 and A-2 and the survey by ILS Associates dated 8/6/13.
2. Prior to issuance of a building permit the applicant or his assigns shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
3. During the construction process the following shall be required:
 - a. The building official shall field check the concrete forms prior to the pour.
 - b. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
 - c. Additionally, any proposed temporary closure of a public right-of-way shall require priory 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.
5. Prior to issuance of an occupancy permit the Planning Department shall field check the completed project to verify that all design review and planning commission conditions have been complied with including , if applicable, installation of landscaping and irrigation.
5. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.
6. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."
7. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Use Permit 14-29. **Any** construction based on job

plans that have been altered without the benefit of an approved modification of Use Permit 14-29 will result in the job being immediately stopped and red tagged.

8. Any damages to Scenic Road resulting from construction activities shall be the responsibility of the property owner. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.

9. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

Ross Valley Fire Department Conditions:

1. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detector shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
2. Carbon monoxide alarms shall be provided.
3. Address numbers must be 4 inches tall and if not clearly visible from the street, additional numbers are required. The project is a substantial remodel so the numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switch off only by a breaker so it will remain illuminated all night. The numbers must be internally illuminated, placed next to a light or be reflective numbers.

4. A fire sprinkler system shall be installed throughout the structure that complies with the requirements of the National Fire Protection Association.

Marin Municipal Water District

1. The applicant must comply with the District Code Title 13, Water Conservation, as a condition of water service.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

Sanitary District

1. If not already installed the side sewer shall be equipped with an appropriate backwater prevention device. Either the existing or the new side sewer shall be inspected and be approved by a District inspector prior to the building permit final inspection.

Miscellaneous Conditions

1. The applicant must comply with any and all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.
2. The applicant shall comply with the recommendation contained in the August 22, 2014 arborist report when installing the foundation elements for the project to ensure continued good health of the two healthy oaks to the south of the pedestrian deck.
3. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing.

ATTACHMENTS

Exhibit A – 8/22/14 arborist report by Becky Duckles

ATTACHMENTS

BECKY DUCKLES
CONSULTING ARBORIST & LANDSCAPE ADVISOR
8876 OCCIDENTAL RD., SEBASTOPOL, CA., 95472
707.829.0555 PH 707.824.0516 FAX

TOWN OF FAIRFAX

AUG 28 2014

ARBORIST'S REPORT
402 SCENIC AVE. - FAIRFAX
Macdonald Residence
August 22, 2014

RECEIVED

On August 14th I visited this site at the request of Leo den Ouden, the project architect. I reviewed the plans with him, and evaluated the oaks that may be impacted by construction. He had staked the locations of the piers that will be drilled to support the expanded parking deck, and delineated the extent of the structure.

A 14" dbh coast live oak just outside the limits of the deck is showing symptoms of Sudden Oak Death (bleeding cankers on lower trunks, cracked/checking bark, etc.), as well as multiple conks or fruiting bodies (small black, knobby structures) of another fungus called *Annulohyphoxylon*. The foliage of this tree appears somewhat sparse, and it is likely to fail or die soon because of the extensive decay and vascular system disruption caused by these pathogens. In my experience, when both of these diseases are present and well-established (as in this tree), trunk or branch failures are common, and tree mortality is imminent. I recommend removing this tree, although it could be retained without significant impact from proposed construction.

The other oak tree in the vicinity of the project is a multi-trunk coast live oak, 7, 10 & 12" dbh. It is not manifesting any symptoms of either disease and appears relatively healthy. Some loose soil and debris has accumulated at the bases of the trunks, which is common on slopes, and should be removed to reveal the basal root flares (for the health of the tree).

To determine if there are significant roots that may be impacted by construction, close to the time of construction I recommend some careful hand-digging at the proposed locations of the piers. The holes should be the width of the auger/pier, to a depth of 30"±. If roots 2" or larger are encountered, the pier location should be shifted, in line, a few inches to clear them. If roots smaller than 2" from this tree are found where piers will be dug, they may be cleanly cut across the face of the root with a sharp saw. No other work needs to be done in advance of construction.

If we do not receive normal rainfall this winter, the owner may wish to provide occasional deep watering to native or ornamental trees on site to improve their health and resistance to disease. On a slope, this may be done with a soaker hose laid throughout the root zones, stopping before runoff occurs. Also, UC Extension is still recommending trunk drenches of AgriFos and PenraBark to prevent Sudden Oak Death on susceptible primary hosts such as coast live oak, black oak and tanoak.

Respectfully submitted,

Becky Duckles

Becky Duckles
ISA Certified Consulting Arborist #WE-0796

EXHIBIT #

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