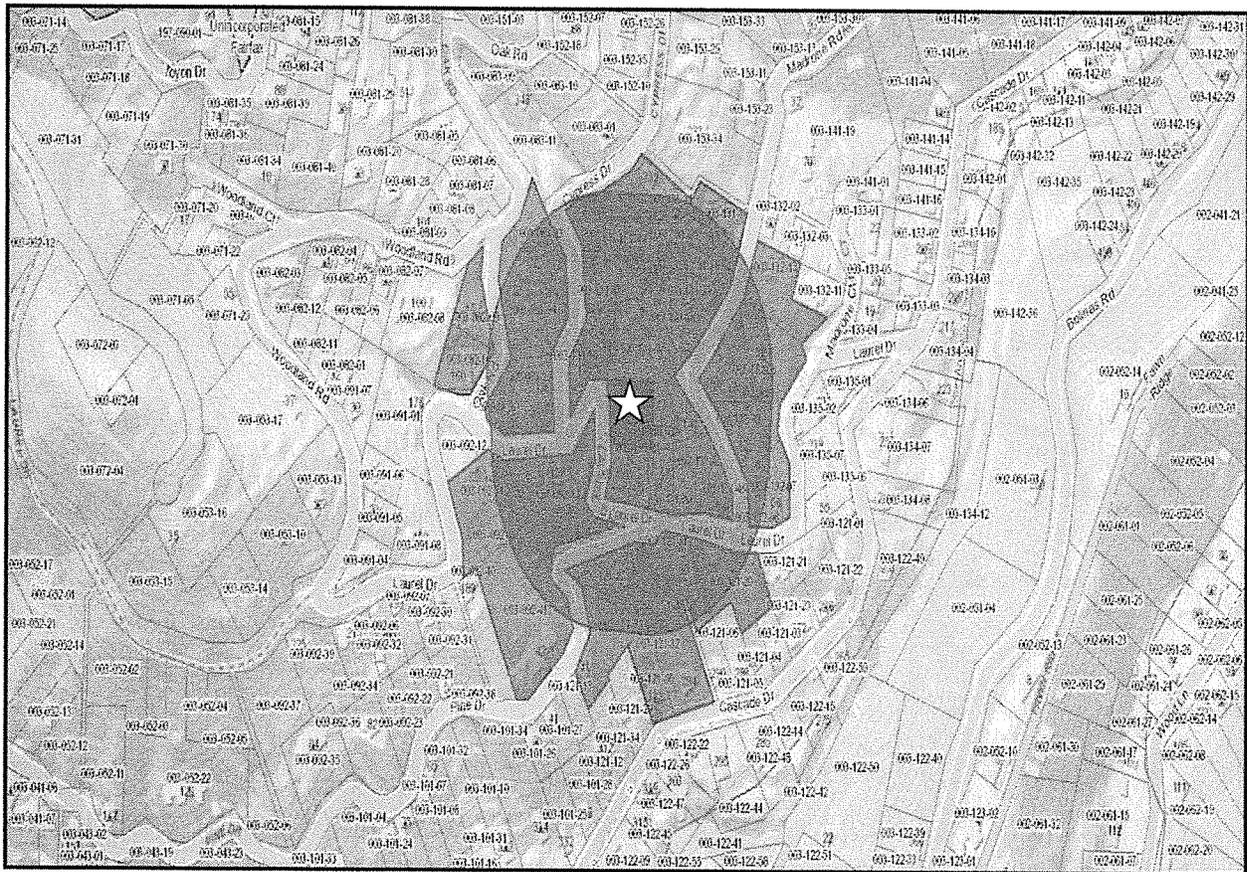


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: March 17, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 120 Laurel Drive; Assessor's Parcel No. 003-131-13
PROJECT: Construct a Shade Structure Over an Existing Deck
ACTION: Use Permit; Application # 16-08
APPLICANT: Doreen Stock
OWNER: Same
CEQA STATUS: Categorically exempt, §15301(e)(1)



120 LAUREL DRIVE

BACKGROUND

The 10,800-square-foot site slopes down from Laurel Drive at an average rate of 17%. The 1,717-square-foot, 3-bedroom, 2-bathroom residence was originally constructed as a 2-bedroom, 1-bath structure in 1933 and was expanded in 1996. There is a two car garage attached to the residence accessed by a driveway that slopes down from the public roadway.

DISCUSSION

The house does not have a dining room, only a small breakfast nook. The owner proposes to build a screened-in porch roof over the existing 217-square-foot, rear deck to provide a dine area that would be sheltered from the sun and insects. The screened in porch and deck would reach 18 feet in height but would not extend above the house eave-line. Town Code § 17.084.060(A)(2) allows structures on down-sloping lots to reach 35 feet and 3 stories in height, therefore the screened porch would comply with the height regulations for the RS 6 Zone District.

The structures on the site comply with the regulations for the RS 6 Zone District 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	35 ft, 3 stories
Existing	40 ft	27 ft	67 ft	10 ft & 20 ft	30 ft	.15	.15	unknown, 1-story
Proposed	same	same	same	same	same	.15	.17	unknown, 1-story

Note: The screened in cover for the deck would not count towards the Floor Area Ratio because the area would not be fully enclosed or weatherproofed. In the future, if the owner wants to replace the screened openings with windows, rendering the area impervious to the weather, the area would be considered living space and would require the approval of a modification to this use permit application.

The screened deck cover complies with all the setback, lot coverage, floor area ratio (FAR) and height limitations of the RS 6 Zone District.

Use Permit

Town Code 17.080.050 requires that a Use Permit be obtained from the Planning Commission prior to any use, occupancy or physical improvements of or on any site failing to meet the minimum size and width requirements based on average slope. The site has an average slope of 17% so the site would have to be 131 feet wide in order to

comply with the code. The site is 100 feet wide and therefore, the screened enclosure requires the approval of a use permit.

The purpose of the conditional use permit is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the Town or in a zone, or only if the uses are designed or laid out of the site in a particular manner [Town Code § 17.032.010(A)].

When considering an application for a conditional use permit the Planning Commission must assess the impacts of the proposal on all adjacent uses and structures, to the site itself and potential project impacts on public health, safety and general welfare” [Town Code § 17.032.010(B)].

The nearest neighboring structure is a detached residential second living unit at 80 Laurel Drive and it is over 40 feet from the existing deck (See Attachment B – a site plan previously submitted to the Town for the neighboring property at 80 Laurel Drive). The proposed screened-in deck cover would increase the privacy for the deck at 120 Laurel Drive and would not have any significant visual impacts for the unit at 80 Laurel Drive because the second unit roof peak is lower than the ground level below the deck to be enclosed (residents of the unit would not be able to see the cover from inside the house and people using the screened area would have a limited view of the yard area of the second unit.

Other Agency/Department Comments/Conditions

Marin Municipal Water District –

1. Water Conservation is a condition of water service and the residence must be in compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation.
2. Should backflow protection be required it is also a condition of water service.

The Fairfax Police Department, Public Works Department, Building Department, Ross Valley Fire Department and the Ross Valley Sanitary District have no concerns about the project or recommended conditions of approval.

RECOMMENDATION

Move to adopt Resolution No.16-05, approving Use Permit application # 16-08 setting for the findings and conditions for project approval.

ATTACHMENTS

Attachment A – Applicant’s Project Description

Attachment B – Site Plan for Adjacent Residence at 80 Laurel Drive

RESOLUTION NO. 16-05

A Resolution of the Fairfax Planning Commission Approving a Deck Enclosure for the Property at 120 Laurel Drive

WHEREAS, the Town of Fairfax has received an application to construct an open air deck enclosure for the rear deck on a site developed with a single-family residence, also designated Assessor's Parcel No. 003-131-13; and

WHEREAS, based on the plans and other documentary evidence in the record the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project with certain conditions of approval listed below; and

WHEREAS, the Commission has made the following findings:

1. The deck enclosure will not project beyond the existing rear deck and will not require the approval of any exceptions to the regulations of the Residential Single-family RS 6 Zone where the property is located. 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.

The deck enclosure maintains a setback from the closest neighboring structure of over 40 feet. Therefore, 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.

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.

Approval of the use permit to allow the deck enclosure, rather than a project that could include expansion to another undeveloped area of the site, will result in equal or better development of the premises than would otherwise be the case

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

Recommended Conditions of Approval

1. The plans submitted with the building permit application shall include construction details that show the opening as being screened.
2. The applicant shall comply with any conditions of the Fairfax Building Official, Public Works Director/Manager, Town Engineer, Ross Valley Fire Department, Marin Municipal Water District and Ross Valley Sanitary District.

3. This approval is limited to the development illustrated on the plans submitted into record at the March 17, 2016, Planning Commission meeting.
4. During construction, the developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 673 (Chapter 8.26 of the Town Code) "Storm Water Management and Discharge."
5. The applicant shall comply with the Town Noise Ordinance Chapter 8.16 of the Fairfax Town Code.
6. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Use Permit # 16-08 by the Planning Commission. Any construction based on project plans that have been altered without the benefit of an approved modification will result in the job being immediately stopped and red tagged.
7. 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.

OTHER AGENCY CONDITIONS

Marin Municipal Water District

1. All indoor and outdoor requirements of District Code Title 13 – Water Conservation, is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements. Landscaping plans shall be submitted and be reviewed and approved by the District. The Code requires submittal of a landscape plan, an irrigation plan and a grading plans.
2. Should backflow protection be required, it shall be installed, inspected and approved by the District prior to the project final inspection.

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

The approval of the Use Permit for the enclosure of the rear deck at 120 Laurel Drive can be made without causing significant impacts on neighboring residences and the environment and is in compliance with the 2010 to 2013 Fairfax General Plan and Fairfax Zoning Ordinance.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on March 17th, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Laura Kehrlein

Attest:

Jim Moore, Director of Planning and Building Services

PROJECT DESCRIPTION: Putting a roof over existing
~~deck~~ creating a screened deck

GENERAL INFORMATION (if applicable):

Item	Existing	Proposed
Lot size	11,740 sq. ft	10,800 sq. ft
Size of structure(s) or commercial space (square feet)	1654 sq. ft	
Height and No. of stories	1 story	
Lot coverage	~ 10%	
No. of dwellings units	1	
Parking ¹ No. of spaces	2	
Size of spaces		

Amount of proposed excavation and fill	Excavation = 0	Fill = 0
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Estimated cost of construction \$ 7,000

Lot Coverage is defined as the land area covered by all buildings and improvements with a finished height above grade and all impervious surfaces except driveways.

¹Minimum parking dimensions are 9' wide by 19' long by 7' high. Do not count parking spaces that do not meet the minimum standards.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? None

Adrian Stock

Signature of Property Owner

1-20-16

Date

[Signature]

Signature of Applicant

1-17-16

Date

Planning Department staff is available by appointment between 8:30 a.m. and 12:00 noon and 1:00 p.m. and 5:00 p.m. Monday through Thursday at 142 Bolinas Road, Fairfax, CA. (415) 453-1584

ATTACHMENT **A**



Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

Wish to put a roof over an existing deck to
provide shade
