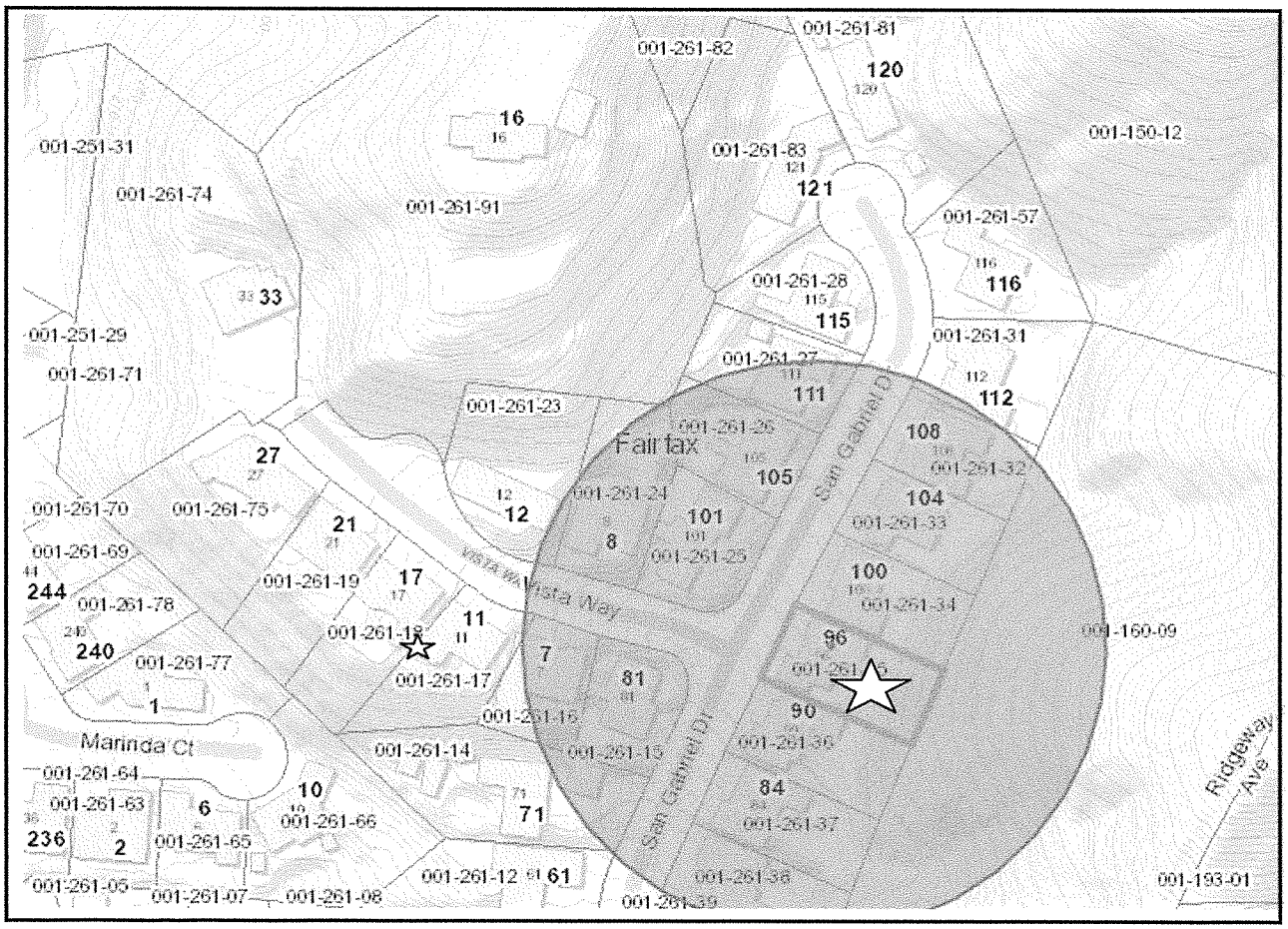
TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services

TO:	Fairfax Planning Commission
DATE:	October 20, 2016
FROM:	Jim Moore, Director of Planning and Building Services Linda Neal, Principal Planner
LOCATION:	96 San Gabriel Drive; Assessor's Parcel No. 001-26-135
ZONING:	Residential Single-family RS 7.5 Zone District
PROJECT:	Construction of a 356-square-foot, Second-story Bedroom and Closet over an Existing Garage
ACTION:	Conditional Use Permit and Side Setback Variance; Application No. 16-37
APPLICANT:	Rod and Millie Milstead
OWNER:	Same
CEQA STATUS:	Categorically exempt, § 15301(e)(1)



96 San Gabriel Drive

2016.CUP&Variance/96SanGariel/10.20.16/mbl

AGENDA ITEM # 6

BACKGROUND

The site is 9,815 square feet in size and slopes up from San Gabriel Road at a rate of 30-percent. The Marin County Tax Assessor's Records indicate that the house was constructed in 1955. The existing, one-story, single-family residence is 1,505-square-feet and contains three (3) bedrooms and two (2) bathrooms, as well as a 449-square-foot attached garage.

DISCUSSION

The owners are requesting a Conditional Use Permit (CUP) and a Combined Side Setback Variance to construct a 356-square-foot, second-story, bedroom and closet addition over the garage of the existing residence. The addition will increase the residence to a 1,872-square foot, 4 bedroom, 2 bathroom structure.

The existing house and proposed addition comply with the regulations set forth in the Residential Single-family RS 7.5 Zone District as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required	**6 ft**	**15 ft**	**40 ft**	**10 ft & 10 ft**	**25 ft**	**.40**	**.35**	**28.5ft, 3 stories**
Existing	**14 ft., 10 inches**	**95 ft., 10 inches**	**110 ft., 8 inches**	**4 ft & 3 ft**	**7 ft**	**.15**	**.21**	**18 ft, 11 inches 1 story**
Proposed	**same**	**same**	**same**	**same**	**same**	**.19**	**.21**	**18 ft, 11 inches 2 stories**

Conditional Use Permit. Town Code § 17.076.050, requires that either a Conditional Use Permit (CUP) <u>or</u> a Hill Area Residential Development Permit be obtained in the RS 7.5 Zone prior to any use, occupancy or physical improvements of or on a building site that fails to meet the minimum lot size requirements based on slope. The site has an average slope of 30-percent and would have to be 28,000 square feet in size and 145 feet wide to comply with the minimize lot size requirement [Town Code § 17.076.050(C)]. The parcel is 9,815 square feet in size and has a minimum width of 63 feet therefore, in accordance with Town Code § 17.076.050, the project requires either a Use Permit <u>or</u> a Hill Area Residential Development Permit.

Because the project does not affect 50% or more of the house, it is not considered a 50% remodel under the Town Code. Projects that are not considered 50% remodels are not subject to the Hill Area Residential Development process per Town Code § 17.072.050(A) and therefore, the project requires a CUP.

The purpose of the CUP process is to ensure that additions do not unnecessarily have an excessive negative impact on neighboring properties while also protecting a property

owner's private property rights. In reviewing an application for a Use Permit in a residential zone, the Commission is directed by the Town Code to give due regard to the nature and condition of all adjacent residences and structures, to the physical environment or the proposed addition and to all pertinent aspects of the public health, safety and general welfare.

Town Code 17.076.060(A)(2) sets the height limit on parcels with slopes of 10-percent or more that slope up from the street on which the parcel fronts at 28.5 feet and 3 stories. The proposed addition would result in a two-story structure and the height of the overall structure would remain at 18 feet, 11 inches as the addition would convert existing attic space in the garage for the proposed bedroom/closet, extending the existing roof line of the residence over the garage/proposed fourth bedroom. While a small window is proposed along the side of the property adjacent to the neighboring property at 90 San Gabriel Drive (southern side of the property), direct views from the window would be of the roof of the neighboring residence.

Lots in the San Gabriel neighborhood range from 7,400 square feet (60 San Gabriel Drive) to 8,160 square feet (111 San Gabriel Drive) to 9,945 square feet (84 San Gabriel Drive). The size of the project lot is 9,815 square feet.

Square footages of neighboring residences range from a 1,467-square-foot, 3-bedroom, 2-bathroom home at 90 San Gabriel Drive to a 1,695-square-foot, 3-bedroom, 2-bathroom residence at 111 San Gabriel Drive to a 2,091-square-foot, 5 bedroom, 3.5 bathroom residence at 101 San Gabriel Drive. In addition, a 4 bedroom, 2 bathroom 1,922-square-foot residence is located at 105 San Gabriel Drive, a 6 bedroom, 3 bathroom 2,712-square-foot residence is located at 8 Gabriel Court and a 4 bedroom, 2 bathroom 1,810-square-foot residence is located at 46 San Gabriel Drive. The project would result in a 1,872-square-foot, 4-bedroom, 2-bathroom residence that would comply with the FAR, lot coverage and height limitations for the RS 7.5 Zone, and would not be out of scale with the property or character of the neighborhood.

Side Yard Setback Variance. Town Code Section 17.076.070(B) states, "...except as otherwise permitted by a variance, each building site in the RS-7.5 zone having a slope of more than 10-percent shall have...(2) Two side yards having a combined width of not less than 25 feet, but neither yard having a width of less than ten feet...."

As indicated above, the existing side yard setbacks and combined side yard setbacks do not comply with the Town Code. While construction of the proposed project would not intrude further into the existing side and combined setbacks, the addition would be constructed within the footprint of the existing garage which currently intrudes into the required setbacks. Therefore a variance to the side yard setback requirements is required for the project.

Town Code Section 17.028.020(B) states that, "In considering an application for a variance, the Planning Commission shall give due regards to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to

all pertinent aspects of the public health, safety and general welfare..."

As described above, the proposed project would be constructed over an existing garage, located entirely within the footprint of the existing structure. Constructing the addition within the existing footprint of the structure would greatly reduce construction disturbance thereby minimizing erosion and increases in sedimentation. Because the rear of the property is sloped, adding the bedroom to the rear of the property would require grading, stabilization of the slope, etc., thereby increasing the amount of construction disturbance associated with the project. As described above the size and nature of the proposed project would result in a residence that would be consistent with other residences located in the San Gabriel neighborhood.

Therefore because of the special circumstances applicable to the property (e.g., topography, size and width) the strict application of the required setback requirements for the RS-7.5 Zone would deprive the applicant of privileges enjoyed by other property owners, would not grant a special privilege, is consistent with the limitations placed upon other properties in the vicinity and would not be detrimental to the public welfare or injurious to other property in the vicinity on which it is situated.

Other Agency/Department Comments/Conditions

Ross Valley Sanitary District

1. The project would require a connection permit from the District. The size of the lateral will depend on the fixture count calculated during the permitting process. A hold will be placed on the property and the Building Department will not be able to perform a final inspection or issue a certificate of occupancy until the Sanitary District conditions are met.

Marin Municipal Water District

1. Compliance with 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. Landscape plans shall be submitted, and reviewed, to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13- Water Conservation should be directed to the Water Conservation Department at (415) 945-1497.

2. Backflow prevention requirements must also be complied with if not currently in place and must be in compliance with current Water District regulations.

Ross Valley Fire Department

1. The smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. They 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 1 detector per story of the occupied portions of the residence.

2. Carbon monoxide alarms shall be provided outside each sleeping area in the vicinity of the bedrooms and one every level of the dwelling.

3. Address numbers at least 4 inches tall must be in place adjacent to the front door and must be internally illuminated and controlled by a photocell and be switched off only by a breaker so it remains illuminated all night.

4. The owner must maintain an effective firebreak around the structure by removing and clearing all flammable vegetation and/or other combustible growth. The Ross Valley Fire Department Standard 220 Vegetation/Fuels Management Plan is available online at Rossvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.

Note: Neither the Fairfax Police Department, Building Department or Public Works Department had any comments or concerns about the project or any conditions to place upon the proposal.

RECOMMENDATION

Move to approve Application # 16-37 by adoption Resolution # 16-30 setting forth the findings and conditions for project approval.

ATTACHMENTS

Attachment A – Resolution No. 16-30

RESOLUTION NO. 16-30

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit (CUP) and Side Setback Variances to Expand an Existing 1,505-Square-Foot Residence by 356 Square Feet at 96 San Gabriel Drive

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit and a Side Setback Variance to expand an existing 1,505-square-foot, 3-bedroom, 2-bathroom residence by 356 square feet adding a bedroom and closet at 96 San Gabriel Drive; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 20, 2016, at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, based on the plans and supplemental information provided by the applicant, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the project's requested discretionary Conditional Use Permit as long as certain conditions, as listed below, are met; and

WHEREAS, the Commission has made the following findings:

1. The proposed 356-square-foot bedroom/closet addition is similar in size, mass and design on the site to other residential structures in the San Gabriel subdivision. Therefore, the approval of the use permit shall not constitute a grant of special privilege, shall not contravene the doctrines of equity and equal treatment and would not be detrimental to the public welfare or injurious to other properties in the vicinity.

2. The residence will continue to maintain the Floor Area Ratio and Lot Coverage limitation(s) with construction of the addition. The addition to the residence will reach a maximum of 18 feet, 11 inches in height, significantly less than the maximum permitted 28.5-foot height limit. Therefore, the development and use of the property as approved under the use permit and variance 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 and variance.

3. Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.

4. Approval of the use permit and variance will result in equal or better development of the premises than would otherwise be the case .Therefore, the project is in the public interest and will enhance the general health, safety and welfare of the community.

5. Due to the steep topography of the site, it is necessary to locate the addition over the existing garage, thereby minimizing site disturbance including grading and erosion resulting in the addition being located within the required side setback.

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

1. This approval is limited to the development illustrated on the plans entitled, "Residential Remodel, 96 San Gabriel Drive, Fairfax, CA 94930", stamped "received" on September 6, 2016, Sheets A1.0 and A2.0 through A2.3.

2. Prior to the building permit final inspection the 356-square-foot bedroom/closet addition shall be constructed as shown on the above referenced plans.

3. During the construction process, all construction-related vehicles including fixture/supply or 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.

4. Additionally, any proposed temporary closure 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.

5. The Building Official shall field check the completed project to verify compliance with the approved plans and building code requirements.

6. The Planning Department shall field check the completed project to verify that the construction reflects the plans approved by the Planning Commission and to verify that all planning commission conditions have been complied with.

7. 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.

8. During construction, the developer and all employees, including contractors and subcontractors must comply with all requirements set forth in Chapter 8.32 of the Town Code, "Urban Runoff Pollution Prevention".

9. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application No. 16-37. ***Any*** construction based on job plans that have been altered without the benefit of an approved modification of Application No. 16-37 will result in the job being immediately stopped and red tagged.

10. 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.

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

Ross Valley Fire Department

1. The site shall comply with the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan by maintaining an effective firebreak/defensible space zone around the site structures.

2. 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.

3. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alteration, repairs or additions that exceed $1,000. Carbon monoxide alarms shall be located outside each dwelling unit sleeping area, in the immediate vicinity of bedroom(s) and on every level of a dwelling unit including basements.

4. 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 are required. Residential numbers must be internally illuminated, placed next to a light or be reflective numbers.

5. Alternate materials or methods in accordance with Section 103.3 of the Fire Code may be proposed; all approved alternate requests and supporting documentation shall be included in the plans set submitted for final approval.

Marin Municipal Water District

1. Compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service.

2. Should backflow protection be required, it shall be installed as a condition of water service.

Miscellaneous Conditions

1. The applicant must comply with any all conditions listed above unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services.

2. Planning Conditions acted upon by the Planning Commission may only be waived by the Commission at a future public hearing. '

3. The applicant shall comply with any and all conditions placed upon the project by the Building Official/Public Works Manager.

4. A construction management plan shall be submitted to the Building Official with the building permit application and shall become a condition of building permit issuance.

5. All exterior lighting, including landscape lighting, shall be LED and shall direct light downward.

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 and Variances can occur without causing significant impacts on neighboring residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 20th, day of October, 2016, by the following vote:

AYES:
NOES: None
ABSTAIN: None

_____
Chair, Laura Kehrlein

Attest:

_____
Jim Moore, Director of Planning and Building Services