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United States Department of the Interior

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Dr. Edward Poisch 2 Alexander Avenue Sansalito, CA 94965 RECEIVED

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CITY OF SAUSALITO COMMUNITY DEVELOPMENT

Dear Dr. Foisch:

Thank you for notifying the National Park Service regarding your proposal to build a new entrance stairway to your house at 2 Alexander Avenue. After review of your proposal by NPS staff and discussions with you at the sits, the following summarizes the conditions that would answer NPS concerns regarding construction on your property adjacent to the Golden Gate National Recreation Area boundary.

We would concur with your request for a variance from the City of Sausalito's required 5 foot side yard setback to a no less than 1 foot setback for your project if the following conditions are met.

 A survey is completed prior to the start of the project to confirm and permanently mark your property line and the GGNRA boundary along the south side of your property.

Prior to construction, a temporary fence will be installed along that boundary that clearly defines the boundary line and contains all construction activity to your

All stairway structure, footings etc. will be placed he less than one foot from the GGNRA boundary that adjoins your property on the south side.

The design of the additions on your property satisfies the City of Sausahio

Community Development department regarding avoidance of any potential impact on slope stability.

 After construction, you will install a continuous, permanent fence along the GGNRA boundary that clearly identifies the boundary line between your property and NPS land. You will maintain that fence as a permanent boundary marker.

 You will have any existing construction on your property that is found to extend onto GGNRA property removed, as well as any construction debris or yard waste that was previously deposited on the GGNRA land adjoining your property. We would further

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ask that no additional materials of any kind be deposited on GGNRA property in the future,

We appreciate your consideration of the need to clearly identify the MPS boundary and keep all construction activities on your property while accomplishing the improvements to your home. If you have any questions about the conditions detailed above, please contact Shirwin Smith at (415) 561-4947.

Sincerely,

Mdi-Liis Barting

Acting Superintendent

cc: Steve Bufferbarger, Building Official, Community Development Department, City of Sausalito

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United States Department of the Interior



NATIONAL PARK SERVICE Golden Gate National Recreation Area Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:

D18 (GOGA-BMD)

November 20, 2007

Sierra Russell, Associate Planner City of Sausalito Community Development Department 420 Litho Street Sausalito, CA. 94965

Re: Variance 2 Alexander Avenue, Sausalito

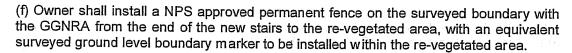
Dear Ms. Russell:

The National Park Service (NPS) is writing to update the City of Sausalito (City) regarding the proposed modification to the variance adopted by the City Planning Commission in Resolution 2003-51 dated November 5, 2003 (Variance Modification). On October 25, 2007, NPS met with Dr. Edward Fotsch, the property owner at 2 Alexander Avenue (Owner), his contractor, surveyor, and City staff to review the as-built site conditions for conformance with the NPS letter dated March 11, 2003 that conditionally accepted the Variance (NPS Conditions Letter), and the NPS letter dated October 10, 2007 regarding the proposed Variance Modification. NPS inspected and verified that the new stairway and garage remodel project (Project) no longer encroaches onto NPS property, but there remain outstanding correction items as follows:

- (a) NPS verified the deconstruction of the Owner's planter along the stairwell that was encroaching on NPS property, however debris from the planter is still in-situ and must be removed (see Image #1 attached);
- (b) NPS verified the removal of Project construction debris and temporary stairs encroaching on NPS property, however NPS approved erosion control measures must be installed on soils disturbed by the construction;
- (c) NPS confirmed an encroaching Owner installed deer fence on NPS property that must be removed (see Image #2 attached);
- (d) NPS verified the presence of an Owner installed plastic drain pipe encroaching on NPS property that must be removed and relocated onto Owner's property (see Image #3 attached); and
- (e) NPS verified that the Owner has not installed the continuous permanent fence or equivalent ground level boundary marker along the surveyed boundary with the GGNRA, and that Owner has existing stairs along the south east side of his property encroaching that must be reconfigured or removed off NPS property (see Image #4 attached).

NPS acknowledges and commends Dr. Fotsch's efforts to meet with NPS to bring the Project into conformance with the NPS Conditions Letter, and to remove the outstanding correction items. NPS understands that Project construction is on hold pending the Variance Modification. Consequently, NPS accepts the City's approval of the 2 Alexander Variance and Design Review Modification application conditioned upon satisfaction of the following conditions prior to final Project approval:

- (a) Owner shall remove planter debris and fill;
- (b) Owner shall remove the deer fence indicated in Image #2 encroaching on NPS property;
- (c) Owner shall install NPS approved erosion control measures on NPS property disturbed by the construction and fence removal;
- (d) Owner shall remove and relocate the plastic drain pipe indicated in Image #3 that is encroaching on NPS property:
- (e) Owner shall reconfigure the lower stairs indicated in Image #4 to remove the encroachment from NPS property:



NPS commends the City Planning Commission and City staff for your patience and consideration in this matter. If you have any questions regarding this communication, please contact me at (415) 561-4971.

Respectfully.

Signed PB 11-20-07

Paul Batlan Amerikan kengan berhalah menandi antah menandi kendalah menand Realty Specialist in an an all walls with a second and a

RESOLUTION NO. 2007-04

RESOLUTION OF THE SAUSALITO PLANNING COMMISSION

<u>DENYING</u> THE VARIANCE MODIFICATION TO ALLOW AN ADDITIONAL ONE (1)

FOOT PROJECTION INTO THE SIDE-YARD SETBACK AND <u>APPROVING</u> THE

DESIGN REVIEW MODIFICATIONS FOR ADDITIONAL BULK AND MASS OF THE

GARAGE AND AN ADDITIONAL BATHROOM (APPLICATION NO. VAM/DRM 07-002)

FOR THE PROPERTY LOCATED AT 2 ALEXANDER AVENUE (APN 065-303-05 & 20)

WHEREAS, an application has been filed pursuant to Municipal Code Title 10 (Zoning) by Don Olsen and Associates on behalf of Ed Fotsch, property owner, requesting Planning Commission approval of Variance and Design Review modifications to previously approved Variance and Design Review Permit No. VA/DR 03-26, approved by Resolution 2003-51, and Design Review Modification No. DRM 06-070, approved by Resolution 2007-08 and City Council Resolution No. 4907, to allow an additional one (1) foot projection of the exterior stairway into the side-yard setback, modifications for additional bulk and mass of the garage, and for an additional bathroom in the under floor area; and

WHEREAS, the Planning Commission has conducted duly noticed public meetings on October 10, 2007, November 28, 2007, and January 9, 2008, in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the 2 Alexander Avenue plan set date-stamped received September 17, 2007; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the October 10, 2007, November 28, 2007, and January 9, 2008 staff reports and related attachments for the proposed project; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission has determined that the required Variance findings cannot be made for the additional one foot (1') projection into the side yard setback of the exterior stairway, as the deviation from the approved Variance permit No. VA/DR 03-26 is necessitated by self-created hardships and will grant special privilege inconsistent with the limitations on other properties classified in the same zoning district; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the required Design Review findings for the modifications to Design Review Permits No. VA/DR 03-26 and DRM 07-060 can be made to allow the additional bulk and mass of the garage and an additional bathroom in the under floor area; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom comply with the requirements of the Zoning Code and General Plan, as outlined in the

staff report; and

WHEREAS, the Planning Commission finds that the Design Review modifications for additional bulk and mass of the garage and an additional bathroom are categorically exempt from the requirements of CEQA pursuant to Section 15301 (e) in that the project involves remodeling that does not increase the floor area by more than 50% of the existing or 2,500 square feet whichever is less; and

WHEREAS, the Planning Commission finds that the findings for the project at 2 Alexander Avenue and listed in Resolution No. 2003-51 and Resolution 2007-08 are valid and the conditions of approval for said resolutions shall remain in full force and effect.

WHEREAS, the determination of the Planning Commission does not alter the findings or conditions of approval listed in City Council Resolution No. 4907, which shall remain in full force and effect; and

WHEREAS, based on public comment reporting landslide concerns, the Planning Commission recommends to the City Council that Condition 12 of Resolution No. 4907 be revised to require compliance prior to issuance of a Building Permit, rather than final project approval.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

- 1. The Variance modification for an additional one foot (1') projection into the side yard setback is denied based on the attached Findings (Attachment A).
- 2. The Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom are approved for the plans date-stamped received September 17, 2007 (Attachment B) based on the attached Findings (Attachment A) and subject to the attached Conditions of Approval (Attachment C).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 9th day of January, 2008, by the following vote:

AYES:

Commissioner:

Peterson, Kellman, Keller

NOES:

Commissioner:

ABSENT: Commissioner:

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ABSTAIN:

Commissioner:

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SECRETARY TO THE PLANNING COMMISSION

PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT A: FINDINGS

VARIANCE FINDINGS

Pursuant to the Sausalito Municipal Code Section 10.68.050 (Variance Findings), it has been found that the requested Variance modification for an additional one foot (1') side-yard setback **is not** in conformity with the following findings:

A) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property, that do not apply generally to other property or uses in the same district.

There are no exceptional circumstances that would not otherwise allow the stairway to be relocated within the approved Variance limitation for a minimum one foot (1') setback. The exterior stairway projecting into the side yard is wide enough to be decreased in width to meet the Variance approved for Application VA/DR 03-26, while still allowing for the minimum Uniform Building Code width. There are also site access alternatives available in the interior of the garage, such as an elevator or interior stairway. Thus, site access and additional off-street parking can still be maintained without requiring the additional one foot (1') side yard projection.

B) Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.

The enforcement of the provisions of the Title requiring the one foot (1') minimum side yard setback originally approved for Application No. VA/DR 03-26 would not result in an unnecessary hardship. The exterior stairway that projects into the side-yard setback could be brought into conformance with the originally approved Variance for a one foot (1') side yard setback, as it is five feet (5') wide, and would meet the minimum 36" stairway width of the Uniform Building Code if reduced by one foot. Establishing the removal of construction to bring the project into compliance as a hardship would create an undesirable land use precedent that new construction does not need to conform to the approved permits.

E) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

Granting a modification to a Variance to allow an additional one foot (1') side-yard setback due to a construction error would establish an undesirable land use precedent for development in residential zones. Development projects requiring discretionary review are required to be compliant with the plans and conditions approved by the Planning Commission, the reviewing authority for such permits. Pursuant to Zoning Ordinance Section 10.50.120, it is the applicant's responsibility to diligently proceed to implement the discretionary permit as approved. Permitting work to be completed otherwise would grant a privilege in allowing work to be constructed that is not in conformance to the approved permits.

DESIGN REVIEW FINDINGS

Pursuant to the Sausalito Municipal Code Section 10.54 (Design Review Procedures), it has been found that the requested Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom in the under floor area <u>are approved</u> based on the following findings:

A) The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The design review modifications to Design Review Permits No. VA/DR 03-26 and DRM 06-070 will maintain the project's consistency with General Plan policies. The project will continue to be compatible with the neighborhood and setting.

B) The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) maintaining the prevailing design character of the neighborhood and/or district or b) introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The additional bathroom is located in the interior of the under floor area and will not change the exterior architectural character. The additional bulk and mass of the garage minimally impacts the design of the structure and will maintain the prevailing design character of the neighborhood.

C) The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

The additional bulk and mass of the garage does not increase the size of the structure to the extent of being incompatible with the scale of structures and buildings in the surrounding neighborhood. The additional bathroom will have no impacts on the scale of the existing structure.

D) The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

The Design Review modification of the enlarged garage does not appear to adversely impact views from the roadway, and appears to constitute a minor deviation from the approved design. Views uphill from the easternmost portion of the property, where downhill properties are located, also do not appear to be adversely affected. As the closest residential structure located downhill is approximately 85' from the garage structure, an additional foot would constitute a minimal change to views uphill.

E) The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The proposed project is not located on a ridgeline, and therefore will not create such impacts.

F) The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.

The proposed modifications do not include new landscaping.

G) The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

The additional bulk and mass of the garage structure will not affect the light and air for uphill properties due to their location on a hillside well above the site, and do not appear to adversely impact public views along Alexander Avenue. Light and air of downhill properties appear to be minimally affected due to their distance and location downhill.

H) Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

The proposed modifications do not include new lighting or mechanical equipment.

The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.

The modifications slightly alter a garage that is not adjacent to residential properties, and thus do not affect the level of privacy to the site and from adjacent properties. The changes also do not alter the landscaping, fencing, or other window and patio configurations.

J) Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.

The proposed modifications do not change the configuration of circulation and parking, and thus do not adversely affect traffic safety and ease of movement.

K) The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.

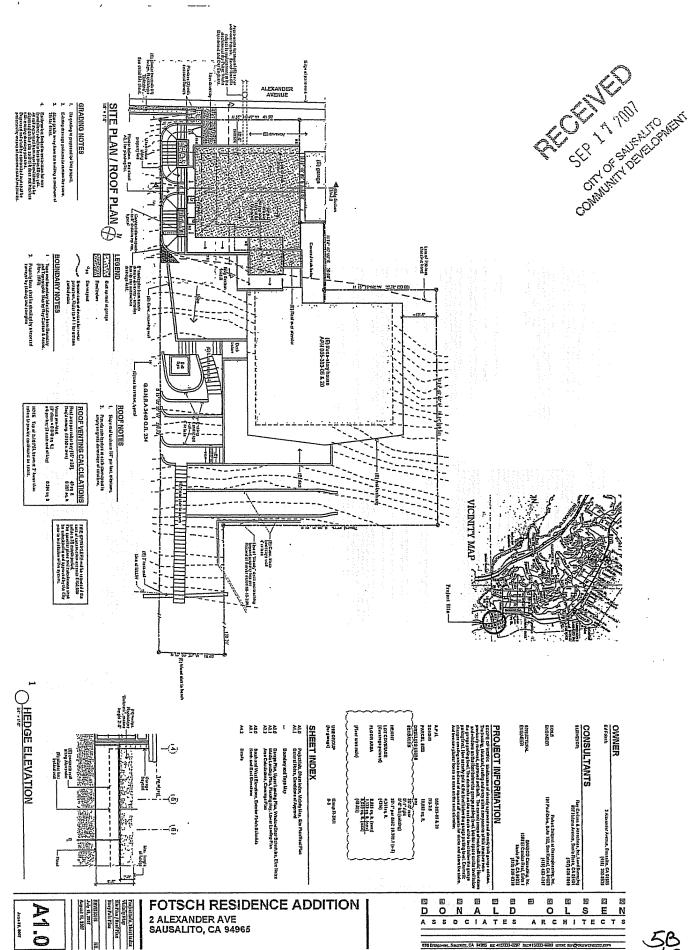
The proposed modifications do not include any tree removal or additional grading other than what has been completed.

L) The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened Review Findings).

The project modifications for additional bulk and mass would amend a previously approved Design Review Permit (VA/DRM 03-26) that was not subject to Heightened Review, and thus are not subject to Heightened Review. The second modification for an additional bathroom does not increase the floor area or site building coverage.

PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT B: PLANS AND ELEVATIONS



GENERAL NOTES

- પાર્કિક કે કિલિપીનીજોડિક ફોલ્સનું કરો રાત્રેકાના કાલ ફોલા ઇનાક હોઇ કર્યું દર્શાળા પ્રતિકાર કરતાં, ફોલા દિવાનો જોનામું દર્શાન, ફેલા કરીના કરીના કરતાં કરતાં, કરો કરીના કર્યાં કાલ દ્વારા દર્શાન, કરીના કરીન કરીના ક
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CONSTRUCTION MANAGEMENT PLAN

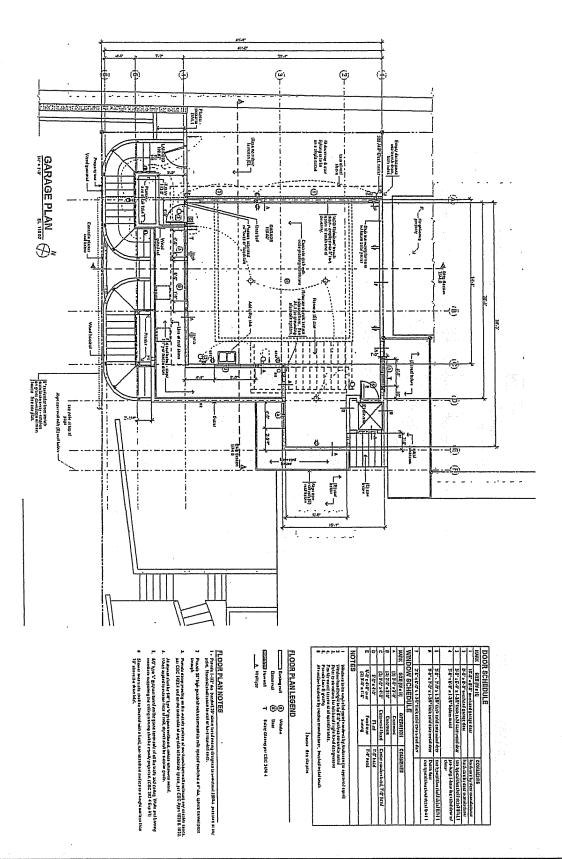
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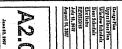
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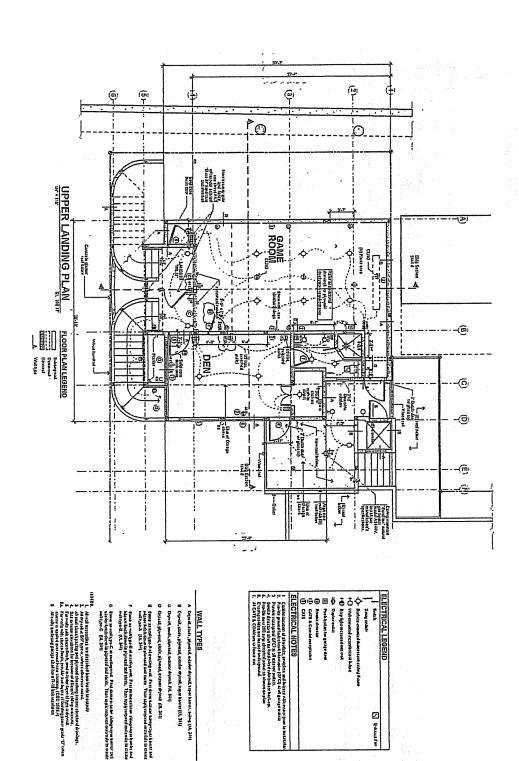
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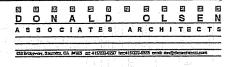




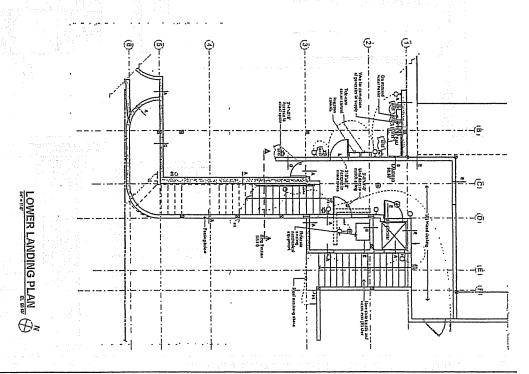




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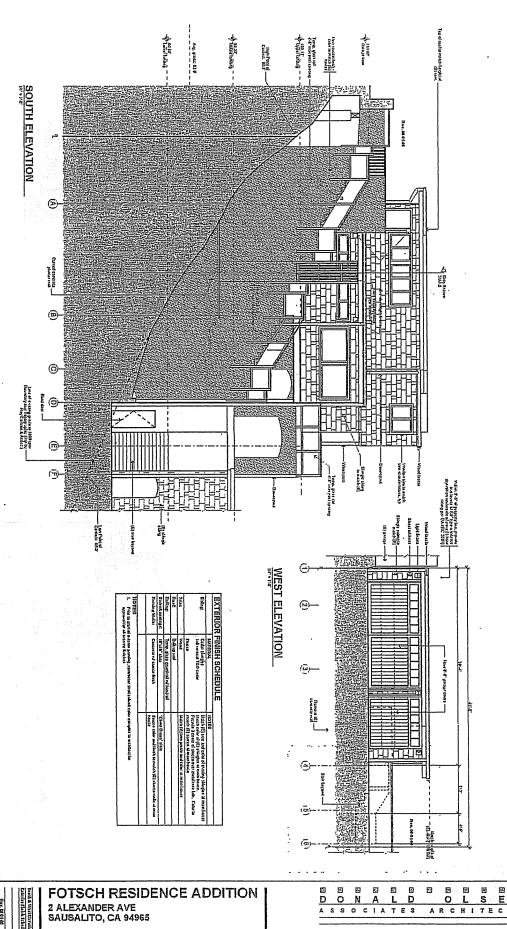
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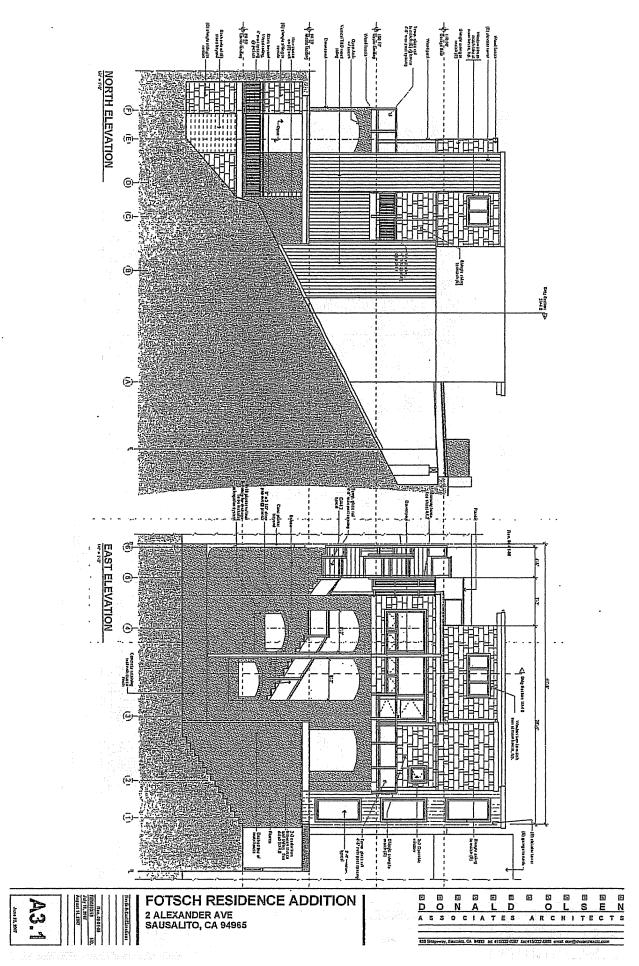
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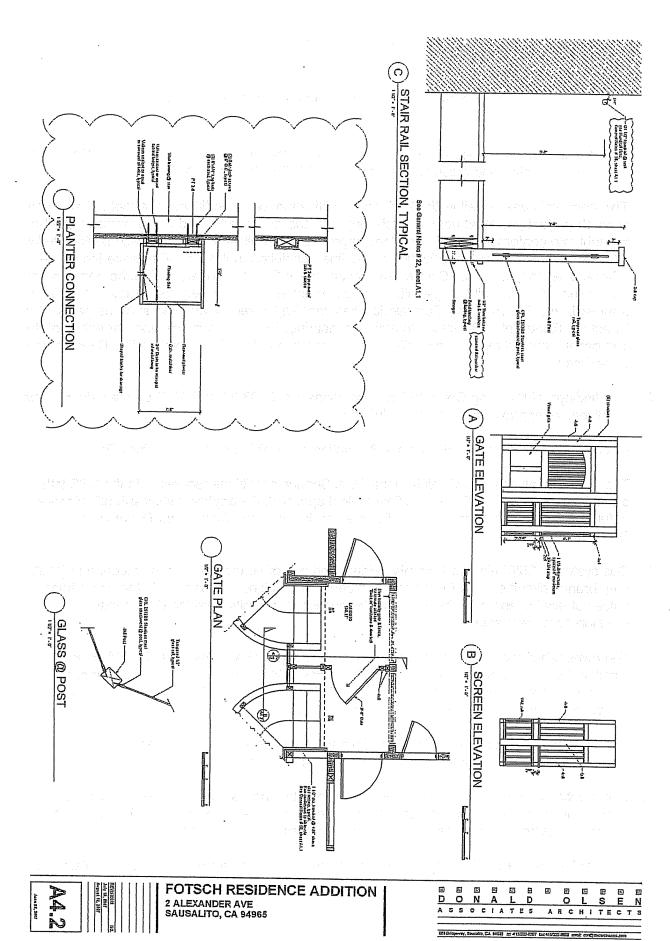












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PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT C: CONDITIONS OF APPROVAL

- 1. The Design Review modifications are approved for the plans titled "Fotsch Residence Addition", date stamped received September 17, 2007 (Attachment A).
- 2. This approval does not allow the Variance modification for an additional one foot (1') side yard setback projection. All structures projecting into the approved 1' side-yard setback shall be brought into conformance with the plans approved for Application VA/DR 03-26 by Resolution 2003-51 within 180 days of adoption of the final resolution, unless an alternative timeframe is otherwise approved by the Community Development Director. No work shall be permitted on the project and no building permits shall be reinstated until the encroachments have been removed, and the Planning Commission has received a report verifying such as part of the Director's Report at a Planning Commission hearing. Plans for removal and correction of the encroachments shall be submitted and approved by the Community Development Department.
- 3. The findings of Planning Commission Resolutions No. 2003-51 and 2007-08 are valid and the conditions of approval shall remain in full affect.
- 4. All conditions imposed by City Council Resolution No. 4907 shall remain in full effect.
- 5. The project shall comply with all National Park Service conditions requested in the NPS letter dated November 20, 2007. Prior to final project approval, the applicant shall submit evidence of full compliance with National Park Service conditions to the Community Development Department.
- 6. Gas systems, "220" electrical premise wiring, and any other premise wiring, except one (1) 20 amp branch circuit serving the bathroom receptacle, shall not be installed in the under floor unless otherwise approved by obtaining the necessary permits from the Community Development Department.
- 7. The owner shall repair the Alexander Avenue viaduct guardrail adjacent to the driveway as stipulated by the repair plan approved by the Golden Gate Bridge Highway and Transportation District and incorporated in the November 28, 2007 staff report within ninety (90) days of issuance of a Building Permit for completion of the project.
- 8. This approval will expire in five (5) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
- 9. Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood.
- 10. Pursuant to Ordinance 1143, the operation of construction, demolition, excavation, alteration,

or repair devices within all residential areas or within a 500 foot radius of residential zones shall be limited to the following hours:

- a. Weekdays Between 8 a.m. and 7 p.m.
- b. Saturdays Between 9 a.m. and 5 p.m.
- c. Holidays Between 9 a.m. and 7 p.m.

Such operation is prohibited on Sundays except by a homeowner residing on the property. Such work shall be limited to 9 a.m. to 7 p.m.

- 11. Dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited pursuant to Sausalito Municipal Code (SMC) Chapter 11.17. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with SMC Section 11.17.060.B.
- 12. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
- 13. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
- 14. In accordance with Ordinance No. 1160, the applicant shall pay any and all City costs arising out of or concerning the proposed project, including without limitation, permit fees, attorneys' fees, engineering fees, license fees and taxes, whether incurred prior to or subsequent to the date of this approval. Applicant acknowledges and agrees that City's costs shall be reimbursed prior to this approval becoming valid.
- 15. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
- 16. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
- 17. The Community Development Department is authorized to administratively approve minor modifications to the approved plans. Major design modifications to the approved project will require further review and approval by the Planning Commission.

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STAFF REPORT SAUSALITO PLANNING COMMISSION

Agenda Item Number 4

PROJECT:

2 Alexander Avenue

Variance and Design Review Modification Application No.

VAM/DRM 07-002

APN 065-303-05 & 065-303-20

MEETING DATE:

January 9, 2008

STAFF:

Sierra Russell, Associate Planner

APPLICANT:

Don Olsen and Associates

PROPERTY OWNER:

Ed Fotsch

SUMMARY

This application was considered by the Planning Commission on the November 28, 2007, at which time the Commission directed staff to return with a resolution of denial of the Variance modification to allow an additional one (1) foot projection into the side yard setback and approval of Design Review Modifications for the additional bulk and mass of the garage and an additional bathroom in the under floor area. Based on the Commission's direction and discussion, staff has prepared the attached draft resolution denying the Variance modification and approving the Design Review modifications for the application. A copy of the November 28, 2007 staff report is also being forwarded to the Planning Commission.

In order to bring the project into compliance with the Variance for a one (1) foot side yard setback, as approved by Resolution No. 2003-51, Staff has included a condition of approval requiring removal of the encroachments into the permitted side-yard setback within 180 days of adoption of the resolution of denial. The purpose of the time frame is to allow adequate time to complete such work, while still ensuring the project is brought into compliance with the originally approved plans. As stated in the attached resolution (Condition 2), no project work shall be permitted and no building permits shall be reinstated until the encroachments have been removed.

EXHIBITS

- 1. Draft resolution
- 2. November 28, 2007 Planning Commission staff report (forwarded to Planning Commission and available upon request with the Community Development Department)



RESOLUTION NO. 2007-XX

RESOLUTION OF THE SAUSALITO PLANNING COMMISSION

<u>DENYING</u> THE VARIANCE MODIFICATION TO ALLOW AN ADDITIONAL ONE (1)

FOOT PROJECTION INTO THE SIDE-YARD SETBACK AND <u>APPROVING</u> THE

DESIGN REVIEW MODIFICATIONS FOR ADDITIONAL BULK AND MASS OF THE

GARAGE AND AN ADDITIONAL BATHROOM (APPLICATION NO. VAM/DRM 07-002)

FOR THE PROPERTY LOCATED AT 2 ALEXANDER AVENUE (APN 065-303-05 & 20)

WHEREAS, an application has been filed pursuant to Municipal Code Title 10 (Zoning) by Don Olsen and Associates on behalf of Ed Fotsch, property owner, requesting Planning Commission approval of Variance and Design Review modifications to previously approved Variance and Design Review Permit No. VA/DR 03-26, approved by Resolution 2003-51, and Design Review Modification No. DRM 06-070, approved by Resolution 2007-08 and City Council Resolution No. 4907, to allow an additional one (1) foot projection of the exterior stairway into the side-yard setback, modifications for additional bulk and mass of the garage, and for an additional bathroom in the under floor area; and

WHEREAS, the Planning Commission has conducted duly noticed public meetings on October 10, 2007, November 28, 2007, and January 9, 2008, in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the 2 Alexander Avenue plan set date-stamped received September 17, 2007; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the October 10, 2007, November 28, 2007, and January 9, 2008 staff reports and related attachments for the proposed project; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission has determined that the required Variance findings cannot be made for the additional one foot (1') projection into the side yard setback of the exterior stairway, as the deviation from the approved Variance permit No. VA/DR 03-26 is necessitated by self-created hardships and will grant special privilege inconsistent with the limitations on other properties classified in the same zoning district; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the required Design Review findings for the modifications to Design Review Permits No. VA/DR 03-26 and DRM 07-060 can be made to allow the additional bulk and mass of the garage and an additional bathroom in the under floor area; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom comply with the requirements of the Zoning Code and General Plan, as outlined in the

TEM NO. 4 PAGE 1

staff report; and

WHEREAS, the Planning Commission finds that the Design Review modifications for additional bulk and mass of the garage and an additional bathroom are categorically exempt from the requirements of CEQA pursuant to Section 15301 (e) in that the project involves remodeling that does not increase the floor area by more than 50% of the existing or 2,500 square feet whichever is less; and

WHEREAS, the Planning Commission finds that the findings for the project at 2 Alexander Avenue and listed in Resolution No. 2003-51 and Resolution 2007-08 are valid and the conditions of approval for said resolutions shall remain in full force and effect.

WHEREAS, the determination of the Planning Commission does not alter the findings or conditions of approval listed in City Council Resolution No. 4907, which shall remain in full force and effect; and

WHEREAS, based on public comment reporting landslide concerns, the Planning Commission recommends to the City Council that Condition 12 of Resolution No. 4907 be revised to require compliance prior to issuance of a Building Permit, rather than final project approval.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

- 1. The Variance modification for an additional one foot (1') projection into the side yard setback is denied based on the attached Findings (Attachment A).
- 2. The Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom are approved for the plans date-stamped received September 17, 2007 (Attachment B) based on the attached Findings (Attachment A) and subject to the attached Conditions of Approval (Attachment C).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 9th day of January, 2008, by the following vote:

AYES:

Commissioner:

NOES:

Commissioner:

ABSENT:

Commissioner:

SECRETARY TO THE PLANNING COMMISSION

PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT A: FINDINGS

VARIANCE FINDINGS

Pursuant to the Sausalito Municipal Code Section 10.68.050 (Variance Findings), it has been found that the requested Variance modification for an additional one foot (1') side-yard setback **is not** in conformity with the following findings:

A) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property, that do not apply generally to other property or uses in the same district.

There are no exceptional circumstances that would not otherwise allow the stairway to be relocated within the approved Variance limitation for a minimum one foot (1') setback. The exterior stairway projecting into the side yard is wide enough to be decreased in width to meet the Variance approved for Application VA/DR 03-26, while still allowing for the minimum Uniform Building Code width. There are also site access alternatives available in the interior of the garage, such as an elevator or interior stairway. Thus, site access and additional off-street parking can still be maintained without requiring the additional one foot (1') side yard projection.

B) Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.

The enforcement of the provisions of the Title requiring the one foot (1') minimum side yard setback originally approved for Application No. VA/DR 03-26 would not result in an unnecessary hardship. The exterior stairway that projects into the side-yard setback could be brought into conformance with the originally approved Variance for a one foot (1') side yard setback, as it is five feet (5') wide, and would meet the minimum 36" stairway width of the Uniform Building Code if reduced by one foot. Establishing the removal of construction to bring the project into compliance as a hardship would create an undesirable land use precedent that new construction does not need to conform to the approved permits.

E) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

Granting a modification to a Variance to allow an additional one foot (1') side-yard setback due to a construction error would establish an undesirable land use precedent for development in residential zones. Development projects requiring discretionary review are required to be compliant with the plans and conditions approved by the Planning Commission, the reviewing authority for such permits. Pursuant to Zoning Ordinance Section 10.50.120, it is the applicant's responsibility to diligently proceed to implement the discretionary permit as approved. Permitting work to be completed otherwise would grant a privilege in allowing work to be constructed that is not in conformance to the approved permits.

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DESIGN REVIEW FINDINGS

Pursuant to the Sausalito Municipal Code Section 10.54 (Design Review Procedures), it has been found that the requested Design Review Permit modifications for additional bulk and mass of the garage and an additional bathroom in the under floor area <u>are approved</u> based on the following findings:

A) The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The design review modifications to Design Review Permits No. VA/DR 03-26 and DRM 06-070 will maintain the project's consistency with General Plan policies. The project will continue to be compatible with the neighborhood and setting.

B) The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) maintaining the prevailing design character of the neighborhood and/or district or b) introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The additional bathroom is located in the interior of the under floor area and will not change the exterior architectural character. The additional bulk and mass of the garage minimally impacts the design of the structure and will maintain the prevailing design character of the neighborhood.

C) The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

The additional bulk and mass of the garage does not increase the size of the structure to the extent of being incompatible with the scale of structures and buildings in the surrounding neighborhood. The additional bathroom will have no impacts on the scale of the existing structure.

D) The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

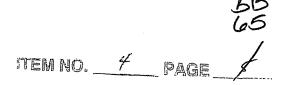
The Design Review modification of the enlarged garage does not appear to adversely impact views from the roadway, and appears to constitute a minor deviation from the approved design. Views uphill from the easternmost portion of the property, where downhill properties are located, also do not appear to be adversely affected. As the closest residential structure located downhill is approximately 85' from the garage structure, an additional foot would constitute a minimal change to views uphill.

E) The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The proposed project is not located on a ridgeline, and therefore will not create such impacts.

F) The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.

The proposed modifications do not include new landscaping.



- G) The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.
 - The additional bulk and mass of the garage structure will not affect the light and air for uphill properties due to their location on a hillside well above the site, and do not appear to adversely impact public views along Alexander Avenue. Light and air of downhill properties appear to be minimally affected due to their distance and location downhill.
- H) Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.
 - The proposed modifications do not include new lighting or mechanical equipment.
- I) The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.
 - The modifications slightly alter a garage that is not adjacent to residential properties, and thus do not affect the level of privacy to the site and from adjacent properties. The changes also do not alter the landscaping, fencing, or other window and patio configurations.
- J) Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.
 - The proposed modifications do not change the configuration of circulation and parking, and thus do not adversely affect traffic safety and ease of movement.
- K) The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.
 - The proposed modifications do not include any tree removal or additional grading other than what has been completed.
- L) The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened Review Findings).
 - The project modifications for additional bulk and mass would amend a previously approved Design Review Permit (VA/DRM 03-26) that was not subject to Heightened Review, and thus are not subject to Heightened Review. The second modification for an additional bathroom does not increase the floor area or site building coverage.

PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT B: PLANS AND ELEVATIONS

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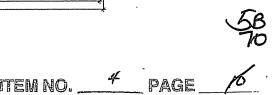
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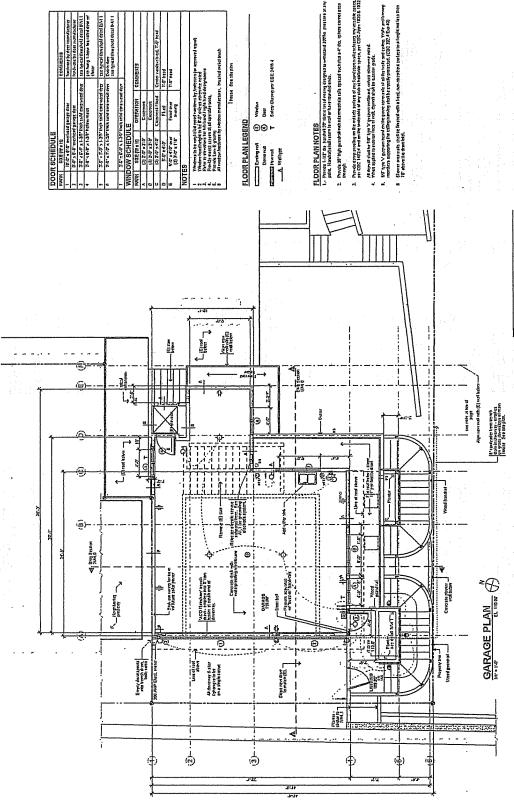
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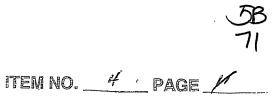


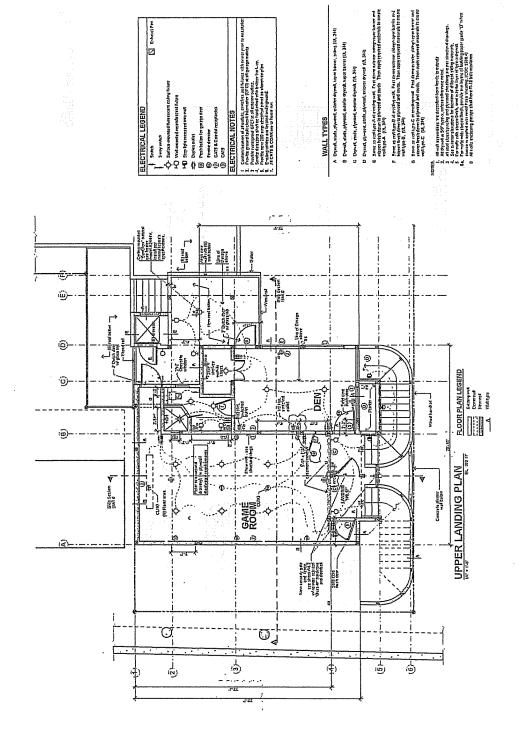


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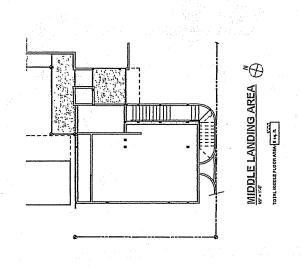


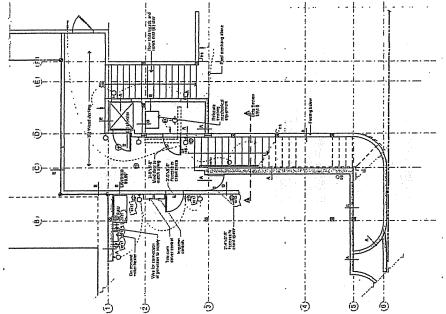


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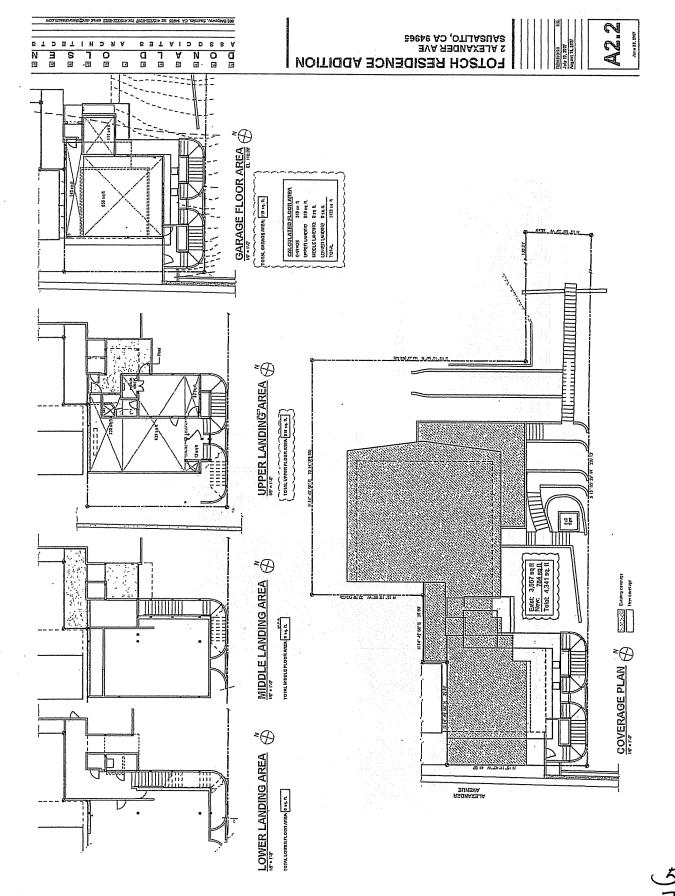






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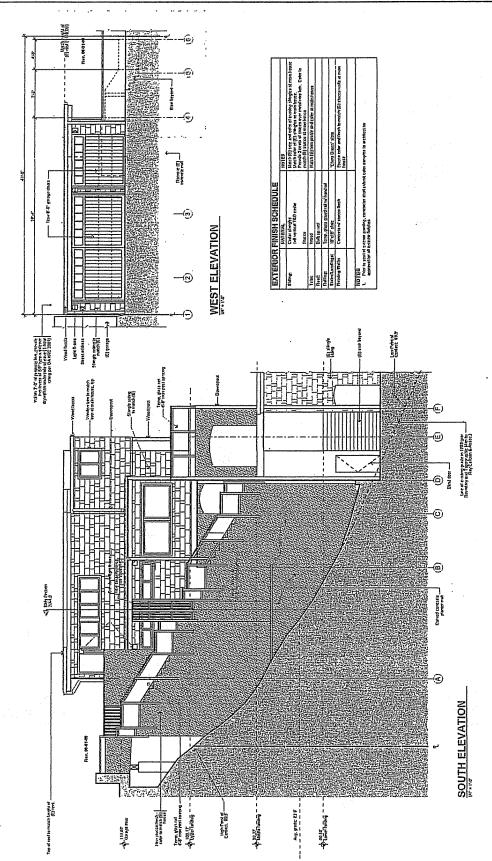
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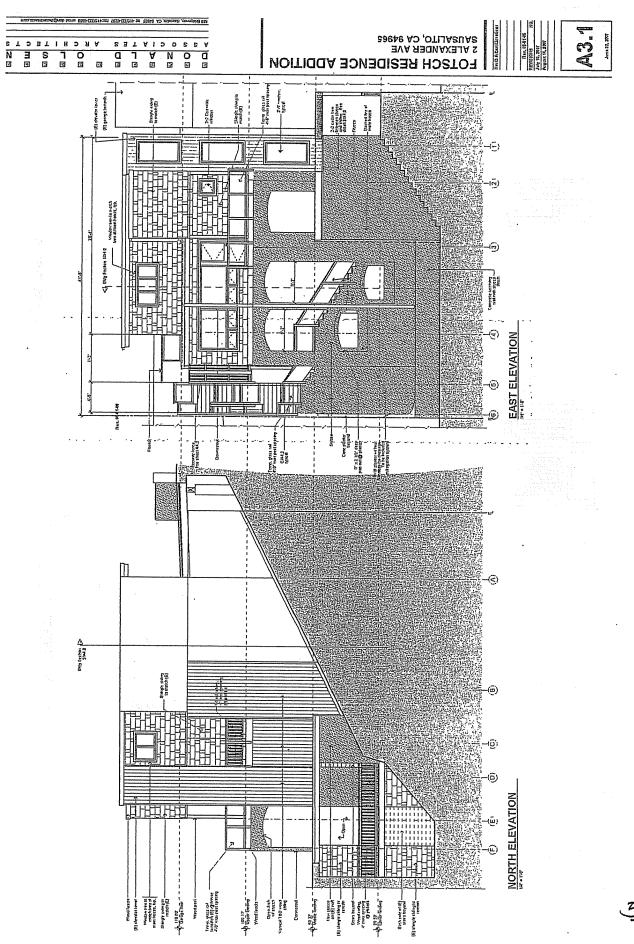
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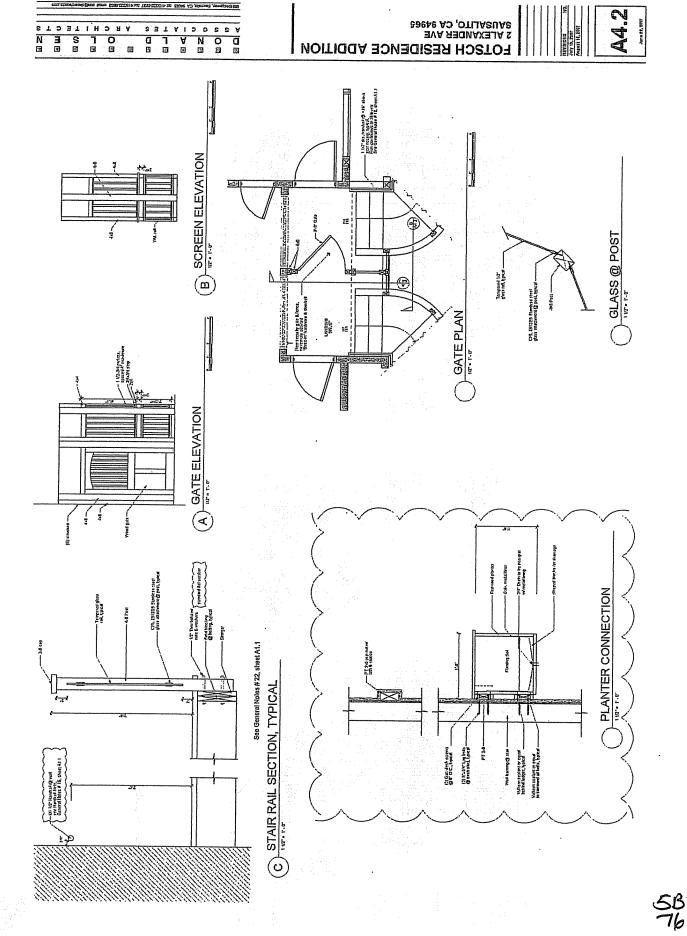


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ITEM NO. 4 PAGE 16

PLANNING COMMISSION HEARING JANUARY 9, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT C: CONDITIONS OF APPROVAL

- 1. The Design Review modifications are approved for the plans titled "Fotsch Residence Addition", date stamped received September 17, 2007 (Attachment A).
- 2. This approval does not allow the Variance modification for an additional one foot (1') side yard setback projection. All structures projecting into the approved 1' side-yard setback shall be brought into conformance with the plans approved for Application VA/DR 03-26 by Resolution 2003-51 within 180 days of adoption of this resolution, unless otherwise approved by the Community Development Director. No work shall be permitted on the project and no building permits shall be reinstated until the encroachments have been removed. Plans for removal and correction of the encroachments shall be submitted and approved by the Community Development Department.
- 3. The findings of Planning Commission Resolutions No. 2003-51 and 2007-08 are valid and the conditions of approval shall remain in full affect.
- 4. All conditions imposed by City Council Resolution No. 4907 shall remain in full effect.
- The project shall comply with all National Park Service conditions requested in the NPS letter dated November 20, 2007. Prior to final project approval, the applicant shall submit evidence of full compliance with National Park Service conditions to the Community Development Department.
- Gas systems, "220" electrical premise wiring, and any other premise wiring, except one (1) 20
 amp branch circuit serving the bathroom receptacle, shall not be installed in the under floor
 unless otherwise approved by obtaining the necessary permits from the Community
 Development Department.
- 7. The owner shall repair the Alexander Avenue viaduct guardrail adjacent to the driveway as stipulated by the repair plan approved by the Golden Gate Bridge Highway and Transportation District and incorporated in the November 28, 2007 staff report within ninety (90) days of issuance of a Building Permit for completion of the project.
- 8. This approval will expire in five (5) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
- 9. Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood.
- 10. Pursuant to Ordinance 1143, the operation of construction, demolition, excavation, alteration, or repair devices within all residential areas or within a 500 foot radius of residential zones shall be limited to the following hours:

5B

- a. Weekdays Between 8 a.m. and 7 p.m.
- b. Saturdays Between 9 a.m. and 5 p.m.
- c. Holidays Between 9 a.m. and 7 p.m.

Such operation is prohibited on Sundays except by a homeowner residing on the property. Such work shall be limited to 9 a.m. to 7 p.m.

- 11. Dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited pursuant to Sausalito Municipal Code (SMC) Chapter 11.17. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with SMC Section 11.17.060.B.
- 12. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
- 13. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
- 14. In accordance with Ordinance No. 1160, the applicant shall pay any and all City costs arising out of or concerning the proposed project, including without limitation, permit fees, attorneys' fees, engineering fees, license fees and taxes, whether incurred prior to or subsequent to the date of this approval. Applicant acknowledges and agrees that City's costs shall be reimbursed prior to this approval becoming valid.
- 15. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
- 16. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
- 17. The Community Development Department is authorized to administratively approve minor modifications to the approved plans. Major design modifications to the approved project will require further review and approval by the Planning Commission.



STAFF REPORT

Agenda Item Number 6

SAUSALITO PLANNING COMMISSION

PROJECT:

2 Alexander Avenue

Variance and Design Review Modification Application No.

VAM/DRM 07-002

APN 065-303-05 & 065-303-20

MEETING DATE:

November 28, 2007

STAFF:

Sierra Russell, Associate Planner

APPLICANT:

Don Olsen and Associates

PROPERTY OWNER:

Ed Fotsch

REQUEST

Applicant, Donald Olsen, on behalf of property owner Ed Fotsch, requests Planning Commission approval to modify Variance and Design Review Application No. VA/DR 03-26 and DRM 06-070 for the property at 2 Alexander Avenue to legalize an additional one foot projection of the exterior stairway into the required side-yard setback. The applicant is also proposing a modification to Design Review Modification Application No. 06-070 in order to include a bathroom in the den of the approved under floor area. The as-built dimensions of the constructed structure increase the site's building coverage and floor area by 0.5% and 0.9% respectively to 43% and 49.8%.

REGULATORY FRAMEWORK

Zoning:

R-2-2.5 (Two-Family Residential)

General Plan:

Medium High Density Residential (up to 17.4 DU/acre)

Special Regulations:

Variance Findings (10.68.050)

Design Review Findings (10.54.050)

CEQA:

Categorically Exempt pursuant to CEQA Section 15301 (e)

Required Permits:

Variance Modification

Design Review Permit Modification

EXISTING SETTING

Neighborhood

The neighborhood consists primarily of single and two-family

structures as allowed by zoning.

Subject Parcel

The parcel is steeply sloped downhill from Alexander Avenue. The parcel is the first property upon entering Sausalito from Alexander Avenue. It is bordered by Golden Gate National

Recreation Area (GGNRA) land owned by the National Park Service to the south, San Francisco Bay to the east, 6 Alexander to the north, and Alexander Avenue to the west.

BACKGROUND

This item was continued from the October 10, 2007 Planning Commission meeting due to information submitted from the National Park Service (NPS) that requested compliance with certain conditions prior to City approval of the modifications. Neighbor concerns were also expressed that the survey completed by the owner did not clarify the location of the as-built structures and whether they encroach onto Golden Gate National Recreational Area (GGNRA) lands. The item was continued to a date uncertain to allow for additional information to be brought to the Commission regarding the survey and encroachments onto GGNRA lands.

DESCRIPTION OF MODIFICATIONS

The modifications being presented to the Commission are to amend two previously approved applications for a Variance and Design Review Permits (Applications No. VA/DR 03-26 and DRM 07-060) and include the following:

- 1) Modifications that resulted from discrepancies between the as-built structure and the approved plans, which include an enlarged structure with additional floor area and building coverage and an additional 1' side-yard setback projection.
 - On July 24, 2007, the Building Inspector, Kenneth Henry, and previous Community Development Director, Paul Kermoyan, inspected the 2 Alexander Avenue project to determine the project's compliance with the approved building permit plans. Mr. Henry and Mr. Kermoyan's measured dimensions of the as-built structure (Exhibit C3) determined that the garage was constructed 16" wider and the exterior stairway 4" narrower, resulting in an additional 1' structural projection into the side-yard setback. Given that previously approved Variance granted a 4' projection into the side yard, and the additional projection would result in a 0' setback, Staff determined that the applicant would need to return to the Planning Commission for reconsideration of the Variance. Other deviations were found with the as-built structure, but were determined to be acceptable with demonstration that the building coverage and floor area satisfies the City's development standards. However, because Planning Commission review would be required for the deviations related to the Variance, the Planning Commission must consider all deviations related to the project.
- 2) Request for a bathroom with shower, sink, and toilet in the den area, which was previously approved with only a shower.
 - In addition to the Variance and Design Review modifications described above, the applicant is requesting to add a bathroom in the den of the under floor area, where a shower was previously shown on the approved plans for Design Review Permit No. 06-070. This modification is also under the purview of the Planning Commission.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This project is categorically exempt from environmental review pursuant to Section 15301 (e) [Existing Facilities] of the California Environmental Quality Act (CEQA), as the addition or remodel of an existing under floor area of a garage which does not involve an increase of more than 50% of the addition or 2,500 square feet.

ANALYSIS

The October 10, 2007 staff report contains the project analysis completed for the requested modifications (Exhibit A2), including the project's compliance with the Municipal Code regulations and General Plan policies, and concerns expressed by neighbors. The following analysis contains the information that has come to light since the project's continuance.

New Survey Information

The applicant submitted a new survey drawing illustrating the location of the as-built exterior stairway structure of concern to the property lines (Exhibit A3). As verified on the drawing and through a site visit with the surveyor and National Park Service, the stairway is located within the 2 Alexander Avenue property and does not encroach onto GGNRA lands.

National Park Service review

On October 10, 2007, the National Park Service submitted a letter regarding their project review of the variance modifications (Exhibit A4). As expressed in their letter, NPS determined the project was not in compliance with the NPS conditions originally approved for the project (Exhibit C9) and requested the City not grant the requested modification until the following conditions were met:

- a. Verification and removal of any encroachments on NPS land;
- Removal of project construction debris, temporary stairs and the restoration of disturbed surfaces on NPS property including installation of erosion control measures; and
- c. Construction of a continuous permanent fence or equivalent ground level boundary marker along the surveyed boundary with the GGNRA.

NPS further clarified they would support the Variance modification upon completion of these requests and that they had no objection to the City allowing work related to the project outside the minimum one foot setback from the property line.

A meeting with the property owner, surveyor, contractor, NPS staff, and City staff was held at the project site on October 25, 2007 to investigate whether the requested NPS conditions had been met. For the meeting, a sample excavation at the edge of the stairway wall was completed, which established that the exterior stairway and footings do not encroach onto GGNRA territory. NPS staff inspected the project, sample excavation, and survey line set, and confirmed the stairway and garage expansion project no longer encroach onto NPS property with the removal of the concrete planter.

The concrete planter is an encroachment that had been confirmed by the earlier survey and reported to NPS by the owner, which was located between the two exterior stairway structures. Although identified on the building plans as a planter, the planter serves as a structural grade beam for the exterior stairway. In order to remove the encroachment of the planter onto NPS property, the owner was permitted to demolish the wall with verification from the project structural engineer of the appropriate method to remove and replace the structure to avoid the encroachment (Exhibit A5). Approval of the revised grade beam

location will be subject to inspection by the project structural engineer and Building Inspector.

Upon verification of project-related encroachments, NPS staff confirmed several other encroachments onto NPS property that need to be removed. Although the temporary stairs had been removed, NPS verified encroachments consisting of debris from the removed planter, a deer fence, a plastic drain pipe, and stairs within the southeast portion of the property. As confirmed in their letter submitted November 20, 2007 (Exhibit A1, Attachment C), NPS reported they would accept approval of the project modifications conditioned on the removal of identified encroachments, installation of approved erosion control measures on disturbed NPS property, and installation of an approved NPS approved permanent fence along the southern boundary line from the end of the exterior garage stairway to the re-vegetated area below. Should the Planning Commission approve the requested project modifications, the approval has been conditioned on compliance with all NPS items requested in their November 20, 2007 correspondence, as stated in the attached draft resolution (Exhibit A1).

Alexander Avenue Viaduct Guardrail

Public comment received for the previous Planning Commission hearing reported concern that the Alexander Avenue viaduct guardrail was improperly cut during the course of the 2 Alexander project. On October 10, 2007, the Golden Gate Bridge Highway and Transportation District requested the City's cooperation to require the owner restore the guardrail to the satisfaction of the District. Although a City Encroachment Permit had been issued for work related to the guardrail and the guardrail was indicated on the approved Building Permit plans to match the width of the new driveway, the District was dissatisfied with the manner in which the wall had been cut and that a permit from the District had not been issued. Specifically, the District requested the exposed concrete and rebar of the guardrail to be sealed and the exposed tubular railing fitted with an end cap.

The City forwarded the request to the owner who subsequently met with the District's engineers to advise the owner on how the guardrail should be repaired. The owner and the District agreed on a plan for the repair (Exhibit A6), and that such repair would be completed within 90 days of issuance of a building permit, as approved by the District (Exhibit A7). This condition has also been included in the attached draft resolution.

Landslide Concerns

Neighbor concerns reported regarding the project include landslide concerns due to the retaining walls, spa, and yard debris located in the 2 Alexander Avenue rear yard. These improvements were thoroughly discussed during the appeal of the Design Review Permit approved by the Commission for the under floor area (Application No. DRM 06-070). As a result, a previous condition approved by the Commission to require geotechnical review of the rear yard retaining walls was revised to require a more complete and thorough submittal of plans related to all work constructed without a Building Permit, including the retaining walls and spa. The condition imposed by the City Council, Condition 12 of City Council Resolution 4907 (Exhibit A1, Attachment B), requires the submittal of plans for the retaining walls that indicate the spa and drainage systems, along with a geotechnical analysis, prior to final approval of the Building Permit for the project, as stated in the following:

"To the extent a Building Permit is or would be required, the applicant shall submit plans, including, without limitation, grading, drainage, and improvement plans to the extent

required by the Building and/or Engineering Divisions, for all work constructed without a Building Permit including floor systems, placement of the spa, and the garden retaining walls to the Community Development Department for review and approval. Engineering staff shall review site improvement elements, including, but not limited to, detached retaining walls and drain systems for approval. Building structural elements shall be reviewed by the Building Department for conformance with Building Code provisions. Said plans shall be submitted prior to final project approval and shall include a geotechnical review prepared by a State of California licensed civil engineer qualified in geotechnical engineering."

As written, the Condition does not require addressing these improvements until final project approval. For this reason, the fact that grading, drainage, structural, or other plans for the rear yard improvements have not been submitted does not render the project in violation of its approvals, as these are not required until final project approval. However, Staff is aware these improvements pose a concern for increased landslide risk. Absent geotechnical review, as requested by staff and necessitated by Condition 12, Staff is unable to assess the safety of the improvements. Although a Geotechnical Report was submitted and approved for the project in March 2005, the geotechnical evaluation only addressed the project components related to the garage construction, and does not address the retaining walls in the rear yard. Further, there are no records with the Community Development Department that a Building Permit was obtained for the retaining walls, which are greater than 48" in height and would require approval of a Building Permit under current California Building Code standards. Thus, staff is supportive of modifying Condition 12 to require compliance at an earlier time. Staff is requesting the Commission consider whether the condition should be modified to state that the plans and analysis shall be submitted at an earlier time, such as 30 days within issuance of a Building Permit. If the Commission feels the condition should be modified, staff will forward the recommendation to the City Council to modify the condition.

Compliance with Conditions of Approval

There are three resolutions that apply to the 2 Alexander Avenue project, all of which contain conditions of approval required for work related to the project. In order to gain a better understanding of the conditions required for the project, a status report is attached that outlines all project-specific conditions of approval and whether they have been completed (Exhibit A8). Standard conditions of approval, such as indemnification of costs, construction hours, and other standard conditions are not included. The status report also illustrates those conditions placed by the Planning Commission in their approval of the under floor area (Resolution 2007-08) that were superceded by a new condition imposed by the City Council during the appeal of the application (Condition 12, Resolution 4907). As shown in the status report, the project is in compliance with all required conditions at this time. The conditions that are incomplete and have not been addressed are conditions that are required prior to final project approval.

Compliance with Fire Safety Codes and Building Height Requirements

There is a misconception that the 2 Alexander Avenue structure was not constructed according to City and State Fire Codes. As required by the Sausalito Municipal Code Section 8.40.011, residential projects exceeding the valuation of \$150,000 require fire sprinklers to be installed throughout the entire structure. Typically, the City's practice for enforcing fire sprinkler requirements occur in the final stages of a project, prior to final project approval. In the case of 2 Alexander Avenue, the main residence has fire sprinklers installed, as verified by the Building Inspector and noted in his inspection record (Exhibit A9). Fire sprinklers have also since been



permitted to be installed in the garage and under floor area due to neighbor and property owner concerns for their health and safety without the protection of a fire suppression system.

Concerns have also been reported that the garage was built higher than approved. This concern was addressed by the Building Inspector and previous Community Development Director in 2006, both of whom measured the height of the building. Their measurements in April 2006 confirmed the as-built structure is in conformance with the approved height, as noted on the Building Inspection Record for the project (Exhibit A9).

ANALYSIS SUMMARY

As summarized in the October 10, 2007 staff report, staff believes the project modifications are compliant with previously approved Design Review Permits and Variance applications VA/DR 03-26 and DRM 06-070. The project was continued from the previous meeting to verify the asbuilt structures do not encroach onto Golden Gate National Recreational Area (GGNRA) lands and that the NPS requested conditions have been satisfactorily met, which Staff has confirmed through a site visit with NPS staff and correspondence received on November 20, 2007. Staff has prepared a draft resolution of approval stating that the previous project approvals shall remain valid and the conditions of approval shall remain in full force and effect (Exhibit A1). Additional conditions have also been incorporated in the draft resolution to address compliance with previous approvals, National Park Service conditions, Golden Gate Bridge Highway and Transportation District conditions, and Zoning Ordinance standards for second units, as listed in detail in the draft resolution.

The following summarizes the main issues involved with the Variance and Design Review Permit modifications and the specific items the Commission should consider in their project review:

- New Survey and Project Encroachments onto NPS property. The most recent survey information submitted illustrates the location of the as-built structures within the property boundaries (Exhibit A3). Staff has also verified on-site with the surveyor and NPS staff the structural footings do not encroach with a sample excavation on October 25, 2007. A concrete planter wall that was identified as an encroachment onto GGNRA lands has been removed, along with other temporary improvements that encroached onto GGNRA lands. NPS has also requested additional identified encroachments unrelated to the project are removed, which has been incorporated as a condition of approval in the draft resolution.
- National Park Service review. NPS has submitted correspondence confirming they would support approval of the project conditioned on compliance with certain conditions prior to final project approval, as stated in their letter dated November 20, 2007. NPS requested conditions include the removal of certain identified encroachments, installation of permanent fencing, and installation of erosion control measures. The attached draft resolution includes a condition requiring compliance with all requested NPS conditions as listed in their letter.
- Alexander Avenue Viaduct Guardrail. As requested by the Golden Gate Bridge
 Highway and Transportation District and directed by City staff, the Owner developed a
 plan to repair the viaduct guardrail located adjacent to the driveway. The District
 approved the plan and requested it be completed within 90 days of issuance of a
 Building Permit, which has been incorporated into the draft resolution.
- Landslide Concerns. Condition 12 of City Council Resolution No. 4907 requires thorough and complete analysis of certain rear yard improvements that are of concern

due to their construction without the benefit of necessary permits. Staff requests the Commission consider whether Condition 12 should be modified to require compliance at an earlier time than final project approval. Should the Commission support the modification, the recommendation would be forwarded to the City Council.

- Compliance with Conditions of Approval. The project is currently in compliance with conditions imposed by Planning Commission Resolutions No. 2003-51 and 2007-08 and City Council Resolution No. 4907. The conditions that have not been completed are required prior to final project approval. Should Condition 12 be modified as stated above, compliance would be required at an earlier time than final project approval.
- Compliance with Zoning Ordinance development standards. With the additional floor area and building coverage created from the enlarged as-built structure, site development remains compliant with the maximum permitted development standards for the underlying R2-2.5 Zoning District.
- Additional Bathroom. The proposed bathroom in the under floor area is a minor modification, but one that will require the approval of the Planning Commission. Staff believes the request could be granted with the condition that no gas systems or "220" premise wiring be installed in the under floor area, to prevent the creation of an unpermitted second unit. Staff requests the Commission review the condition addressing the bathroom and determine the necessity of said condition.
- Impacts to Public and Private Views. The additional projection of the as-built structure does not appear to adversely impact public views. Neighboring residential structures downhill are located at a distance far enough that an additional one foot projection would have a negligible impact to uphill view obstructions.
- Structural Review. The City has deferred the structural analysis of the enlarged structure to the project structural engineer. As stated in the structural engineer's letter submitted (Exhibit C4), the modifications resulting from the as-built discrepancies from the approved plans are minor and the as-built structure is structurally safe under the approved engineering design and calculations. The City Engineer has reviewed this letter and agrees with the analysis.

PUBLIC NOTICE AND FEEDBACK

Notice:

Ten (10) days prior to the hearing date, notice of this proposal was posted on site and was mailed to residents and property owners within 300 feet of the subject parcel.

Written Feedback:

As of this writing of the staff report, staff has received correspondence from six neighbors supporting the modifications, three neighbors opposed to the modifications, one letter expressing concern that the building was built higher than approved (see staff response above), and two letters from the representative of Mr. and Mrs. Moody expressing concern with the project modifications. These are all attached in Exhibits Section B as listed below.

STAFF CONCLUSIONS

Staff Recommendation:

Staff believes that the proposed application for a Variance modification meets the requirements of the Sausalito Municipal Code and is consistent with the goals and objectives of the General Plan. Staff believes that all necessary Variance and Design Review findings can be made as they were previously in Resolution No. 2003-51 and Resolution 2007-08, and recommends that the Planning Commission adopt the attached draft resolution of approval. Additionally, the Planning Commission may:

- 1. Approve the application with modifications;
- 2. Continue the application for additional information and/or project revisions; or
- 3. Deny the application and direct Staff to return with a Resolution of Denial.

EXHIBITS

A. VAM/DRM 07-002 - November 28, 2007 staff report exhibits

- 1. Resolution of Approval Approving Application No. VAM/DRM 07-002 with:
 - Attachment A Plans and Elevations
 - Attachment B Project Resolutions in Effect: Planning Commission Resolutions

No. 2003-51 (with October 22, 2003 staff report incorporated) and

2007-08, and City Council Resolution No. 4907

Attachment C - National Park Service letter dated November 20, 2007

- 2. October 10, 2007 Staff Report (without attachments)
- 3. New Stairway Diagram, dated October 30, 2007
- 4. Letter from the National Park Service, dated October 10, 2007
- 5. Letter from project structural engineer, dated October 18, 2007
- 6. 2 Alexander Avenue Barrier Rail (Guardrail) Repair Plan
- 7. Email from Norma Jellison of the Golden Gate Bridge Highway and Transportation District, dated November 6, 2007
- 8. Project Conditions of Approval Status Report
- 9. 2 Alexander Building Permit Inspection Record

B. Public Comment Received

- 1. Letter from Michael Rex with attachment, dated November 20, 2007
- 2. Email from neighbor Ian Moody, dated November 20, 2007
- 3. Email from neighbor Ian Moody regarding landslide concerns, dated November 20, 2007
- 4. Fax from neighbors Thomas McAdams and Gregory Davis, dated October 9, 2007
- 5. Email from neighbor Forest Baskett, dated October 7, 2007
- 6. Email from neighbor Patrick Courtney, dated October 5, 2007
- 7. Letter from John Keating, dated October 4, 2007
- 8. Letter from neighbor Marie McDermott, dated October 4, 2007
- 9. Email from neighbor Bob Maloy, dated October 4, 2007
- 10. Letter from neighbor Dennis Fecteau, dated October 3, 2007
- 11. Letter from neighbor Ian Moody, dated October 3, 2007
- 12. Letter from neighbor Ann Watson, dated October 3, 2007

- 13. Email from neighbor Bill Werner, dated November 20, 2007
- C. VAM/DRM 07-002 October 10, 2007 staff report exhibits
- 1. Draft resolution, moved to Section A above
- 2. Vicinity Map
- 3. Dimensions of garage as-built structure measured by staff on July 24, 2007
- 4. Letter from Structural Engineer, SAABCO Consulting Inc., dated September 11, 2007
- 5. Photo illustrating public view of garage along Alexander Avenue
- 6. Photo illustrating view from easternmost (downhill) point of the 2 Alexander property
- 7. Letter from NPS, dated March 11, 2003
- **8.** Corner Record with description of Survey points filed with Marin County on August 27, 2007
- 9. 2003 Survey filed with Marin County
- 10. Letter from 2 Alexander project Contractor, dated September 14, 2007
- **11.** Property Owner statement submitted to National Park Service, dated September 22, 2007
- 12. Letter from Liz Ponzini regarding NPS restoration efforts, dated April 18, 2005
- **13.** Letters from the property owner and applicant dated August 8, 2007 and September 6, 2007
- 14. Public Comment, moved to Section B above
- 15. Public Comment, moved to Section B above

THE FOLLOWING MATERIALS WERE SUBMITTED ELECTRONICALLY TO THE PLANNING COMMISSION AND ARE AVAILABLE WITH THE COMMUNITY DEVELOPMENT DEPARTMENT UPON REQUEST:

Staff Reports

- 16. October 25, 2006 and November 8, 2006 Staff Reports, and Resolution No. 2006-44
- 17. March 14, 2007 Planning Commission Staff Report without attachments
- 18. May 15, 2007 City Council Staff Report (Appeal) without attachments

<u>Minutes</u>

19. Planning Commission Meetings

August 6, 2003 October 22, 2003 November 5, 2003

May 10, 2006 June 7, 2006

20. City Council Meetings

May 15, 2007 June 12, 2007 June 19, 2007 October 25, 2006 November 8, 2006 March 14, 2007

October 10, 2007

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RESOLUTION NO. 2007-XX

RESOLUTION OF THE SAUSALITO PLANNING COMMISSION
APPROVING VARIANCE AND DESIGN REVIEW MODIFICATION APPLICATION NO.
VAM/DRM 07-002 TO ALLOW AN ADDITIONAL ONE (1) FOOT PROJECTION INTO
THE SIDE-YARD SETBACK AND FOR AN ADDITIONAL BATHROOM IN THE UNDER
FLOOR AREA LOCATED AT 2 ALEXANDER AVENUE
(APN 065-303-05 & 20)

WHEREAS, an application has been filed pursuant to Municipal Code Title 10 (Zoning) by Don Olsen and Associates on behalf of Ed Fotsch, property owner, requesting Planning Commission approval of Variance and Design Review modifications to previously approved Variance and Design Review Permit No. VA/DR 03-026, approved by Resolution 2003-51, and Design Review Modification No. DRM 06-070, approved by Resolution 2007-08and City Council Resolution No. 4907, to allow an additional one (1) foot projection of the exterior stairway into the side-yard setback and for an additional bathroom in the under floor area; and

WHEREAS, the Planning Commission has conducted duly noticed public meetings on October 10, 2007 and November 28, 2007, in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the 2 Alexander Avenue plan set date-stamped received September 27, 2007; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the October 10, 2007 and November 28, 2007 staff reports and related attachments for the proposed project; and

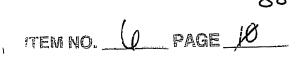
WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the modifications comply with the requirements of the Zoning Code as outlined in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the modifications comply with the General Plan as outlined in the staff report; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the requirements of CEQA pursuant to Section 15301 (e) in that the project involves remodeling that does not increase the floor area by more than 50% of the existing or 2,500 square feet whichever is less; and

WHEREAS, the Planning Commission finds that granting a Variance to allow the additional one (1) foot projection into the side-yard setback is substantially compliant with the originally approved Variance findings (Application No. VA/DR 03-26); and



WHEREAS, the Planning Commission finds that the Design Review Modifications are substantially compliant with the Design Review findings of Design Review Permits No. VA/DR 03-026 and DRM 06-070 for the enlarged as-built structure and the additional bathroom; and

WHEREAS, the determination of the Planning Commission does not alter the findings or conditions of approval listed in City Council Resolution No. 4907, which shall remain in full force and effect, except as stated herein; and

WHEREAS, the Planning Commission finds that the findings for the project at 2 Alexander Avenue and listed in Resolution No. 2003-51 and Resolution 2007-08 are valid and the conditions of approval for said resolutions shall remain in full force and effect.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES, based on the above-noted criteria, that it can approve Variance and Design Review modification Application No. VAM/DRM 07-002, subject to the following conditions of approval:

- 1. The Variance and Design Review modification request is approved for the plans titled "Fotsch Residence Addition", date stamped received September 27, 2007 (Attachment A).
- 2. The findings of Planning Commission Resolutions No. 2003-51 and 2007-08, included herein (Attachment B), are valid and the conditions of approval shall remain in full affect.
- 3. The project shall comply with all conditions imposed by City Council Resolution No. 4907 (Attachment B).
- 4. The project shall comply with all National Park Service conditions requested in the NPS letter dated November 20, 2007 and incorporated herein (Attachment C). Prior to final project approval, the applicant shall submit evidence of full compliance with National Park Service conditions to the Community Development Department.
- 5. Gas systems, "220" electrical premise wiring, and any other premise wiring, except one (1) 20 amp branch circuit serving the bathroom receptacle, shall not be installed in the under floor unless otherwise approved by obtaining the necessary permits from the Community Development Department.
- 6. The owner shall repair the Alexander Avenue viaduct guardrail adjacent to the driveway as stipulated by the repair plan approved by the Golden Gate Bridge Highway and Transportation District and incorporated in the November 28, 2007 staff report within ninety (90) days of issuance of a Building Permit for completion of the project.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 28th day of November, 2007, by the following vote:

AYES:

Commissioner:

NOES:

Commissioner:

ABSENT:

Commissioner:

SECRETARY TO THE PLANNING COMMISSION



PLANNING COMMISSION HEARING NOVEMBER 28, 2007 VAM/DRM 07-002 2 ALEXANDER AVENUE

ATTACHMENT A: PLANS AND ELEVATIONS

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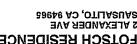
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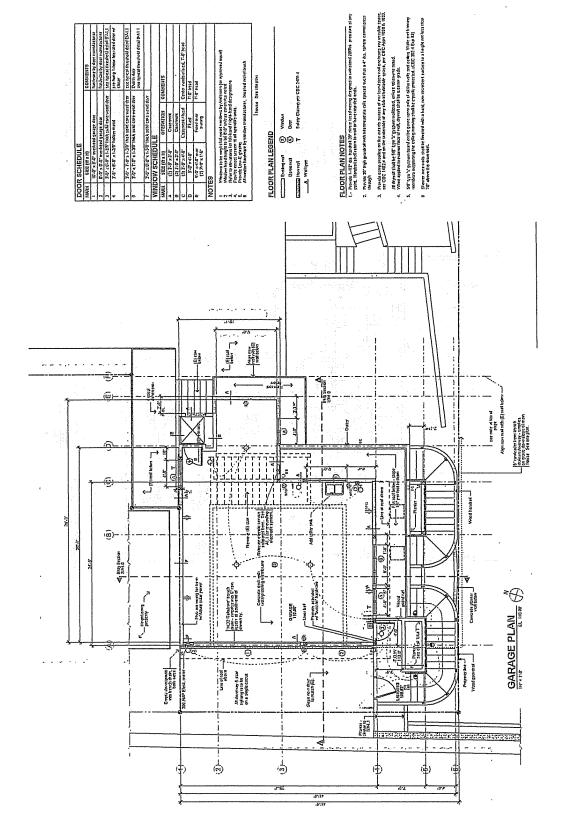
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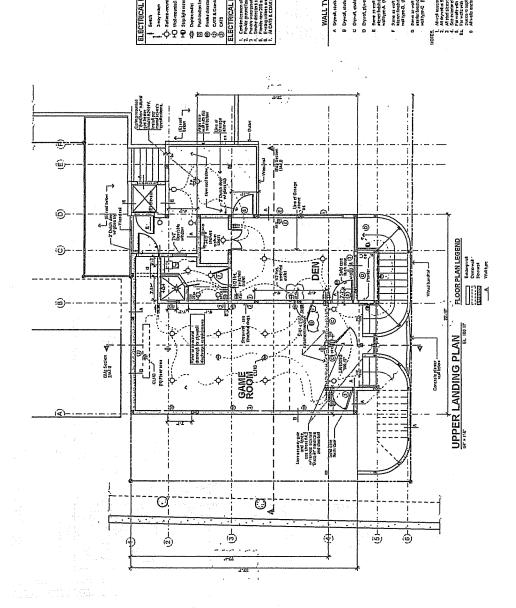
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FOTSCH RESIDENCE ADDITION

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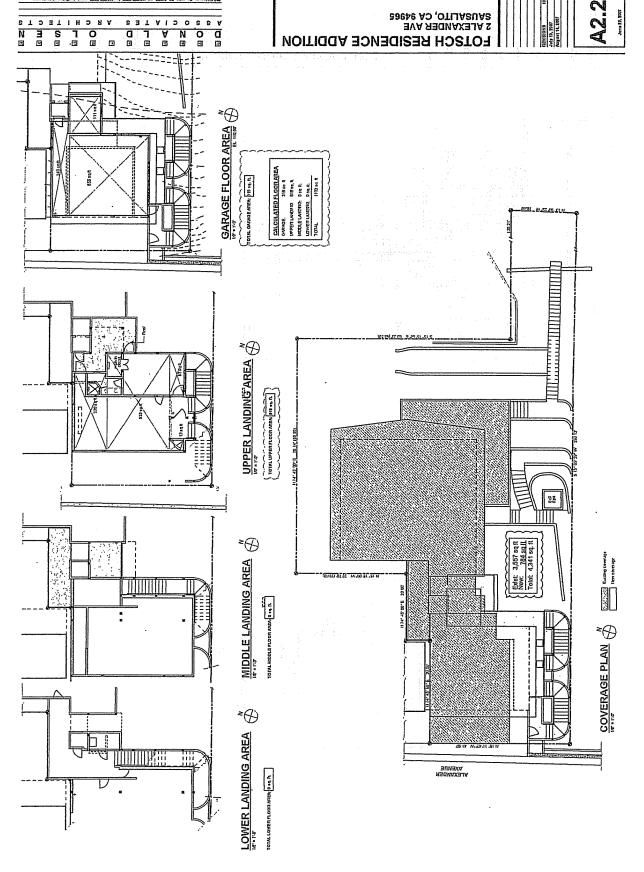
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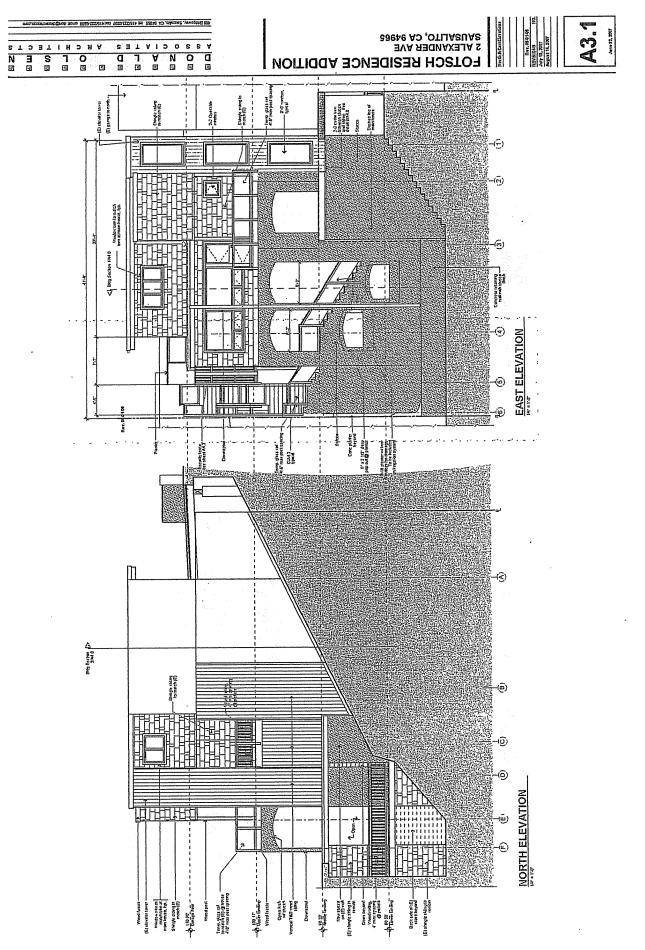
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