



TOWN OF FAIRFAX

STAFF REPORT

August 1, 2018

TO: Mayor and Town Council

FROM: Ben Berto, Director of Planning and Building Services *GB*

SUBJECT: Discuss/consider the Planning Commission's work program and priorities for Fiscal Year 2018-19

CONTINUED FROM THE MAY 2, JUNE 6 AND JULY 18, 2018, MEETINGS

RECOMMENDATION

Review the Planning Commission's recommended work program and provide direction on the work program and priorities for FY18-19.

BACKGROUND

The Fairfax 2010-2030 General Plan, adopted by the Town Council in April 2012, listed 319 programs for which the Planning Commission (PC) and planning staff were assigned responsibility for implementing (see attachment C - General Plan Planning Program matrix).

Work on several General Plan implementing programs such as the zoning for Victory Village, affordable senior housing project, have been undertaken by staff, the PC, and the Town Council since the 2012 General Plan adoption.

In order to further work on the General Plan programs, the Planning Commission and staff systematically reviewed those programs and the Commission ranked their recommended highest priority (see below).

Four additional work program topics this fiscal year will affect General Plan-oriented work program items: review of the Marinda Heights subdivision of the "Wall" Property, cannabis regulations, maximum house size regulatory overview, and Town regulatory responses to the State's (ongoing) changes to California housing statutes. The latter item is discussed in this this staff report.

To facilitate meaningful progress on the major topical areas, the Planning Commission and staff are also recommending some Town Zoning Code amendments, to clarify and simplify certain processing of applications, for example homeowners seeking approval for minor residential remodels.

DISCUSSION

At the June 6th Town Council meeting, Heather Lee of the Town Attorney's office presented a comprehensive overview of the State's extensive housing legislation, and its potential effects on Fairfax.

As noted in the presentation, one of the State's stated housing goals is "effectively curbing the capability of local governments to deny, reduce the density of, or render infeasible housing development projects" [Housing Accountability Act]. The new legislation attempts to inject predictability into the process of reviewing housing applications and encourage approvals, at the expense of local discretion.

There is an urgent need to begin to consider options for continuing to provide some local guidance on housing development, given the current pro-housing State legislation. The Planning Commission reviewed such options at their June 21 meeting, and is recommending prioritizing work on these options, and evaluating how this can be integrated into other housing-related work program items which the Commission has identified as priorities in its draft FY 2018-2019 work program.

Below are recommended options the PC has included in the FY 2018-2019 work program. It should be noted that some items are more staff related work program items than the PC, but the PC does believe the issue is a priority for staff. Staff and the PC acknowledge the work program is overly ambitious and will not be completed in a year given limited time and staff resources. However, the work program does allow the PC to discuss and set its priorities and, more importantly, receive feedback from the Council. The top priority is to develop objective development and design standards for housing in response to state legislation.

The Zoning Amendments are proposed to simplify and/or clarify processes for applicants. In addition, these amendments would allow staff to reallocate its time to the working on the top priorities.

Objective Development Standards

New statutes - Streamlining Local Approval (SB 35) and the Housing Accountability Act (AB 678, AB 1515, SB 167) contain mandates that any local development review decision to deny or reduce the density of any proposed housing development must be based on "objective development standards". While some of these standards might be straightforward and appropriate (for example, setbacks, height limits, floor area ratio, etc.), the new restrictions on local discretionary review severely limits the Town's ability to apply discretionary review guidelines and policies as bases for denying or reducing the density of housing projects.

Fairfax's Zoning Ordinance currently contains several zoning districts which contain few objective development and design standards, instead relying on nuanced but subjective development processes, criteria, and guidelines (for example, to minimize visibility, tree removal, grading, runoff, etc.). The new legislation severely compromises the Town's historical ability to apply these tools, and raises substantive concerns about our current regulations' ability to be applied for denial or density reduction of housing development.

Recommendation: Evaluate Fairfax zoning districts that permit housing, determine what objective development and design standards exist, and develop and adopt additional objective development and design standards to augment or replace subjective criteria and policies, where feasible.

Site and Project Eligibility

In addition to the limitations placed by the State on the Town's review of housing development applications, State laws increasingly require that each local jurisdiction ensure it is successfully progressing towards achieving its State housing production goals and meeting its share of the regional housing needs allocation (RHNA). For example, there are now enhanced requirements for an overall 'no net loss' of housing units when downzoning or approving lower density housing development on sites identified in the Town's Housing Element. The 'no net loss' requirements highlight the need for a comprehensive evaluation of possible locations to maintain a housing site inventory that complies with State requirements. Additional requirements for data collection and analysis, including heightened requirements for designation of sites that can realistically and demonstrably accommodate the Town's share of the RHNA at specified affordability levels, further dictate a comprehensive evaluation.

Recommendation: Concurrent with developing and adopting development and design standards, inventory local development sites, including those identified in the Housing Element, for suitability to meet State housing production requirements. Identify approaches for addressing the Town's housing obligations.

Expedited Project Application Review

One of the most challenging aspects of the State's housing statutes is a requirement for local jurisdictions to expedite review of housing project applications. For example, whereas previously the process for reaching a decision on a project's compliance with local regulations could take several months, now a jurisdiction must determine, within 30 days of a project application for 150 or fewer housing units being deemed complete, whether there are any project inconsistencies with the aforementioned "objective development standards". While CEQA and other project review requirements still apply, this truncated, expedited review puts tremendous pressure on a jurisdiction's staff in reaching this determination, particularly where few objective standards exist.

Recommendation: Develop compliance review process and checklist, including to the extent possible substantive and procedural requirements for an application submittal to document application completeness and regulatory compliance. This would also include internal review procedures to ensure timeline compliance.

Housing reporting requirements

The State's increasing requirements for data collection and reporting on local housing activities imposes a significant burden on Town resources. These include, for example, ongoing requirements for reporting on Housing Element compliance, Regional Housing Needs Assessment (RHNA) housing approval and construction, and extensive data requirements accompanying the new housing legislation. Staff anticipates more bureaucratic, State-mandated requirements going forward. New legal authority for State Housing and Community

Development (HCD) mid-cycle Housing Element review and enforcement (including the potential revocation of Housing Element certification for identified violations) adds to the demands on staff. The involvement of multiple governmental entities exacerbates the uncertainty and complexity of these processes. For example, transportation funding eligibility is now partially tied to maintaining HCD Housing Element certification and meeting RHNA housing numbers. Municipalities and counties are not the only ones affected: fire departments, water and other utility providers, and other entities also bear financial and regulatory burdens associated with the state's housing directives. It is not clear how associated costs will be borne, particularly in light of other applicable legal requirements that limit financial mitigation and exaction obligations to a payer's fair share of costs of services.

Recommendation: Seek to coordinate/combine to the extent possible with other local agencies (e.g., County of Marin) in order to comply with State requirements.

General Plan Implementing Programs

Although now somewhat superseded by the demands imposed by the new State housing regulation, the Planning Commission has identified General Plan (implementing) program priorities which it is recommending Town Council direction on. The GP programs are listed verbatim in italics. Staff anticipates that several of those that pertain to housing (as shown below) can/will be integrated into the above exigencies. *These were the priorities established prior to the June 6th presentation on housing legislation.*

Conservation Program CON-8.2.1.1 Establish an ordinance for protecting, maintaining, rehabilitating, and enhancing historical and cultural resources within the Fairfax Planning Area.

At their goal-setting workshop, the Town Council listed as one of its top goals for 2018 to "Consider establishment of density limits and objective development standards in commercial areas to address potential residential development on sites." An historic character analysis of the downtown would be very helpful in identifying character-defining features. Cassidy DeBaker, Fairfax resident historical expert, has volunteered to take the lead on inventorying and developing information on the historical character of the downtown.

Recommendation: If the Town Council supports an integrated approach to the downtown, develop policies and regulations for the preservation of the Town's historical structures and character.

Housing Program H-1.1.1.5 Preserve Existing Low Income Units. The Town has 2 deed restricted housing projects, Bennett House and part of Creekside, but does not currently have any deed-restricted "at-risk" units at this time. Should there be affordable units at risk in the future, the Town will work with property owners of deed-restricted units that are at risk of converting to market rate housing to preserve the lower-income housing by providing funding from the Town's trust fund, working with the County to target Section 8 vouchers for the units or providing other funds for improvements. The shortage of affordable housing is a major issue in Marin and statewide. The Town Council affirmed its interest in efforts to "Explore innovative approaches, such as Tiny Homes, to create more affordable housing opportunities." The current context is not just to preserve deed-restricted units, but to preserve low-income housing.

Recommendation: Consider new policies and regulations to avoid any net loss of housing, for example, preventing the conversion of existing duplexes, triplexes, or single-family residences with ADU's, into solely single-family residences.

Housing Program H-4.1.2.1 Enact Density Bonus Zoning and Other Incentives. Town staff will prepare amendments to the Zoning Ordinance, for review and approval by the Planning Commission and Town Council, to encourage an increase in the supply of well-designed housing for extremely low-, very low- and moderate-income households. The amendments will include adoption of a density bonus ordinance consistent with the State Density Bonus Law (GC Section 65915 et seq.). In addition, staff and decision makers will evaluate the following:

- Implementation of additional elements of a density bonus program (above and beyond those required by GC Section 65915 et seq.), including establishing simplified density bonus provisions.*
- Inclusion of financially equivalent incentives, such as use of trust fund resources, expedited processing by Planning and Building Services, and waived or reduced fees to the extent possible for lower-income housing.*
- Updates to fee schedules to reduce and/or defer fees, to the extent possible, for lower-income housing.*
- Establishment of streamlined processing procedures and other mechanisms to fit with funding requirements and to facilitate desirable lower-income projects that have a significant portion of their total floor area committed to housing.*

According to the Town Attorney's office, the Town can adopt its own Density Bonus ordinance setting forth tiers identifying which density bonus concessions are preferable, which might be accepted, and which are not preferred. This in turn would inform developers in their project planning and development, about which density bonus concessions are more or less desirable, therefor increasing the potential of proposed projects being consistent with the Town's preferences. The ordinance can be used to clarify some of the policies in the General Plan. Including a tier system and clarifying the specifics of what is meant by certain GP policies would give the Town more control over any project attempting to use density bonus and concession regulations to decrease amenities and/or increase the number of project units.

Recommendation: Consider developing a Density Bonus Ordinance setting forth tiers identifying degrees of preference for density bonus concessions. If interested, the Town could also explore inclusionary zoning policies.

Housing Program H-4-1.1.4 Review and Update Parking Standards. Town staff will review and consider updating parking standards, for review and possible approval by the Planning Commission to allow for more flexible parking requirements to allow facilitate infill, transit-oriented, and mixed-use development. The Town will require and consider reducing the parking space requirements for one-bedroom units. Recommendation will be made based on the review and action taken on the recommendations. The Town of Fairfax has not updated the town parking ordinance since 1982. The Town Council listed as one of their 2018 goals "Discuss strategies for addressing parking in the downtown area including the adjacent neighborhoods." Additional parking topics that could be considered include: State-mandated parking changes, compact versus regular space dimensions and ratios, EV parking spaces/charging stations,

providing for autonomous vehicles, and elimination of covered parking requirements (also see Zoning Ordinance Amendments discussion below).

Recommendation: Review and update the Town parking regulations.

Other General Plan Work Program items

Additional General Plan implementing program items shown in Attachment A are recommended priorities by the Planning Commission, out of the 319 or so General Plan programs that were assigned to Planning as responsibilities. Given other, more immediate priorities, some/most of these are unlikely to be part of this year's work program unless the Town Council were to prioritize their work program inclusion, or if other factors resulted in one or more of them becoming top priorities. These additional General Plan programs are worth retaining as medium-term considerations for future annual work programs. The rationales for each of these General Plan implementing program are also provided in Attachment A.

Zoning Amendments

The Planning Commission frequently has on its agenda application for very minor projects. The question often asked is 'why are we reviewing this?' In other words, why do such minor home remodel/improvements (for example) have to be reviewed by the Planning Commission? A subtext to this question are the other major items discussed above and below in this report which are or will shortly be before the Planning Commission. Each of those items will require significant expenditures of staff and Commission time and effort. The very modest zoning changes which are recommended would free up the staff and Commission time needed to focus on much higher priority and more significant work program items. While some of these changes may or may not be what the Town is looking for at this time, the extent to which they are made will determine what progress can be made on the larger work program.

Zoning amendments recommended by the Planning Commission are:

1. Limit the time a development application can remain incomplete.
2. Revise regulations concerning a) Covered Parking b) Tandem Parking
3. Allow administrative review for parcels that are substandard in width
4. Allow the PC or staff to independently approve Tree Permits under certain circumstances without the approval of the Tree Committee; as a side note, staff would include the revision to allow the Council to appoint at-large members to the Tree Committee in the event no representatives from the required committee/commissions (FOSC, PARC, PC) are able to regularly attend the Tree Committee meetings.
5. Allow ministerial review of certain applications
6. Establish expiration dates for discretionary permit approvals

Other Major Work Program Tasks

There are two other major work program topics (mentioned above) which will impact the PC's ability to implement work program:

- Marinda Heights Subdivision of the Wall Property
The proposed Marinda Heights Subdivision of the Wall Property will involve a substantial

amount of staff and Planning Commission work/time in the coming months. The application is still incomplete. The applicant recently stated that he intends to bring in a response to the March 23, 2018 project status (incompletion) letter shortly.

After the incomplete items have been addressed, the project will enter into its Environmental Impact Report (EIR) phase.

- Cannabis regulations

A special Town Council-Planning Commission meeting featuring a consultant specializing in governmental oversight of cannabis businesses was held on May 30, 2018. Coming up with an updated, permanent set of Regulating commercial cannabis businesses is one of the Town's highest work program priorities. Staff and the Planning Commission await direction from the Town Council on what aspects of commercial cannabis regulation should be their work focus.

FISCAL IMPACT

We anticipate most of the work product can be performed in house with assistance from the Town Attorney. However, due to limited staff resources we may require outside professional assistance.

ATTACHMENTS

- A. General Plan implementing program rationales
- B. Zoning Amendment rationales

July 18, 2018

Other Planning Commission
General Plan Priority Programs (with rationales)

1. *Land Use Program LU-1.2.1.1 Evaluate existing Visually Significant Areas on the Visual Resources Map and update as appropriate*

The graphical Visual Resources Map, Figure OS-1, found on page OS-4 of the General Plan's Open Space Element dates from the 1970's. The hand-drawn map contains inaccuracies in its depiction of relevant physical features in the Town.

General Plan Program LU-1.2.1.1 acknowledges the limitations of the Visual Resources Map and recommends updating as appropriate. Staff is working with GIS consultants to develop an updated, real-world georeferenced Map of Visual Resources. Determining where these features are actually located and designating features and boundaries in regards to real-world projects will be a challenge, but one which will result in a more accurate and useable map

2. *Open Space Program OS-3.2.2.1 Update Fairfax Ordinance 17.060 to clarify conditions surrounding development near ridgelines and encourage the County of Marin to align the Marin County Ridgeline Ordinance, as it exists as of the date of approval of this General Plan, with the Fairfax Ordinance 17.060.*

Chapter 17.060 of the Zoning Code, Ridgeline Development, contains review criteria and findings, including language on the applicability of the Town's Visual Resources Map (see #2 above). The County of Marin's Ridgeline and Upland Greenbelt development regulations contain similar provisions. Work will evaluate what the two regulations share in common and how they differ, and what modifications/clarifications may be appropriate.

Applying Fairfax's Ridgeline Development regulations to the Marinda Heights Subdivision of the Wall property will also help clarify Fairfax's regulations and point to potential updates.

3. *Land Use Program LU-7.2.5.2 Develop and adopt an ordinance to preserve neighborhood scale and character to rebuild structures when wide-scale destruction has occurred.*

This program points towards developing a local post-disaster recovery ordinance, which will improve the speed, efficiency, quality, and predictability of post-disaster efforts, and provide guidance about preserving neighborhood scale and character. Fairfax witnessed the real-world example of the Sonoma and Napa County firestorm, and the numerous challenges faced in rebuilding after catastrophic widespread destruction.

The recent Firewise certification of Cascade Canyon illustrates how neighborhoods can address disaster preparedness, and potentially increase awareness of how to respond after a catastrophic event. Establishing local priorities for recovery will also assist Fairfax in negotiations with State and Federal agencies in the event disaster strikes.

4. *Conservation Program CON-6.1.2.3, Incorporate lighting restrictions for proposed new commercial development, replacement street lighting and residential landscaping.*

This would involve a new lighting ordinance, which could potentially be based on a Dark Sky model ordinance, it would include features such as what would trigger the requirement for lighting upgrades. The Town is already in the process of retrofitting its street lights to energy efficient fixtures. The Planning Commission received a good overview of Dark Sky issues and practices at their April 19 meeting.

5. *Open Space Program OS-1.4.2.1 If development plans are presented to the Planning Commission for parcels on the [open space] inventory list, the commission should encourage clustered development on a small segment of the parcel, with the provision of an easement on the undeveloped portion to create Designated Open Space.*

The concept has been discussed at public meetings with the developer of the proposed Marinda Heights subdivision of the Wall Property. The proposed development plans do reflect a pattern of clustering. Proposed easements, etc. will be part of the review of this and other vacant property development projects.

6. *Conservation Program CON-3.1.2.1 Develop a Creek Master Plan with implementing programs and funding sources for restoring the creeks and protecting habitat in the Planning Area.*

To accomplish this program, staff would research how other municipalities have tackled similar master plan efforts, work with Marin County's Watershed Department to learn of studies and work that have already been completed (e.g., creek restoration projects) and draw upon this information for the purposes of master plan development, further review the "Geomorphic Assessment of Town of Fairfax Project Sites-Final Report, July 31, 2006" prepared for the Town by Fluvial Geomorphology Consulting, and research how potential modifications to the current creek ordinance and creek setback ordinance could further protect creeks and associated riparian habitats. It is likely that efforts regarding this program will be longer-term in view of the many pressing priorities with which the Planning Commission and staff are already faced.

May 2, 2018

Zoning Ordinance Amendments

Simplification of some of the work processing applications under current zoning regulations is important if substantive progress is desired on General Plan implementing programs. Since the 2012 adoption of the General Plan, the Town has only implemented a small portion of the hundreds of General Plan Planning-related implementing programs. The primary reason is that Town staff is almost fully occupied processing applications under the current zoning regulations.

The Planning Commission considers implementation of priority General Plan programs a high priority. To that end, they recommend the following amendments to the Zoning Ordinance:

(1) Limit the time a development application can remain incomplete.

The question is whether, and for how long, an application should be allowed to remain incomplete but 'on the books'? Currently for the most part there is no time limit on incomplete applications. There are several benefits to enacting a time limit:

- It minimizes the possibility that the Town Code and other governmental regulations may change mid-review, complicating the process.
- It avoids stale information. Many technical reports (engineering, etc.) contain expiration dates. Requiring new versions of the 'same' information engenders resistance, even if the information is no longer valid.
- It minimizes the possibility of staff turnover during the project submittal. Although this hasn't been a significant problem in Fairfax, when it does occur it could add considerable uncertainty to all aspects of a review process.
- Lack of progress completing an application often indicates changed circumstances on the part of applicants that significantly impacts their ability to pursue the project to successful completion. Even once a project is complete, changes are often required in order for a project to be approved. Inability to even complete an application is not a good sign that they can/will do so. It is better for an application to expire and the applicant to resubmit when circumstances permit completion in a timely manner.

A search of regulations in other jurisdictions reveals that at least two, San Anselmo and the County of Marin, have ordinances limiting the amount of time an application can remain incomplete. A listed expiration deadline lets an applicant know up front what is necessary for a project to continue to be processed, and the circumstances that result in a project expiring.

Based on similar procedures already adopted in Marin, staff suggests the following expiration information and procedures be included in a potential zoning change:

- (1) The Planning Application form would be modified to include language stating that if an application has been deemed incomplete and remains so for a specified period of time (e.g., 180 days), the application would be considered expired.
- (2) In accordance with the Permit Streamlining Act, staff transmits a project status letter within 30 days of application submittal. If an application is deemed “incomplete,” the letter summarizing all of the information needed to complete the application will also state the time period within which an applicant must submit information or the application will expire.
- (3) Staff would also issue “warning” letters to applicants informing them of the pending deadline to submit the requested materials. Application materials would be available for pick up for 1 week following the expiration deadline, and if the materials were not picked up within the week, they would be recycled.
- (4) If any application fees remained unexpended, these would be refunded to the applicant.
- (5) Code language would state that if an applicant decides to initiate a previously expired application at a later date, the applicant would have to submit a complete Planning Application and pay the full planning fees.

(2) Revise regulations concerning a) Covered Parking, b) Tandem Parking

a) Covered Parking Town Code § 17.052.010(D) requires, “At least one of the off-street parking spaces for a residential unit must be covered, except as set forth in § 17.052.020”. Town Code § 17.052.020(C) exempts properties from have a covered parking spot if they have a slope of greater than 15%, and slope down from the street access. See Attachment B for a visual depiction of what constitutes a 15% slope.” A 15% slope is a fairly moderate slope, so many of the properties in Town are already exempt from the covered parking requirements. The State of California’s new Accessory Dwelling Unit Statute now allows garages to be converted into Accessory Dwelling Units without discretionary review, and does not allow jurisdictions to require replacement parking to be covered, or in many cases in Town, require any parking at all.

Rather than unduly burden the relatively few applicants who would be subject to the covered parking requirement in the Zoning Ordinance, the Commission agreed that the Code should be modified to allow uncovered parking Town-wide.

b) Tandem Parking Town Code § 17.052.010(E) states that “no tandem parking shall be allowed, except for a [third] guest space in tandem with [two parking spaces] required parking for the principal residence. Tandem parking shall not be used in conjunction with a parking space required for a residential second unit.”

State ADU regulations prevent any local jurisdictions from prohibiting tandem parking or parking in the side yard setback. Therefore, Town Code will need to be amended to be consistent with State law.

Also, many of the Town's housing stock already has legal non-conforming tandem parking and parking in the side yard setback.

Historically, tandem parking and parking in the side yard setback were commonly found throughout the older housing developments in Fairfax. Craftsman style residences often had their driveways run alongside the house to a garage in back or along the side of the house. Driveways and garages were also often only 1 car in width.

Insofar as the State does not allow any type of additional parking to be required for most ADU's in Town, and that tandem parking cannot be prohibited for such units, it is unfair to subject a property with only one residence to more stringent parking requirements than a property with two residences.

Parking in the side yard setback is recommended by the Planning Commission to still require a variance and PC review.

(3) Allow administrative review for parcels that are substandard in width

In 1973 the Town adopted its current Zoning Ordinance which included hill area residential development regulations and increased all the setback regulations and minimum lot size and width requirements for all residential properties. The code change dramatically increased the minimum parcel sizes for all sloped parcels. The result of the changes were that roughly 90 % of the residentially zoned properties in Town became legal non-conforming, either with respect to their lot sizes or their existing setbacks. At the same time the Town included code language in all the residential zone districts equivalent to the following code provision:

Except as otherwise provided in §§ 17.044.030 through 17.044.050 of this title, a use permit or hill area residential development permit (HRD) must be first secured in the RS-6 zone for any use, occupancy or physical improvement of or on a building site failing to meet the following requirements:

- (A) Minimum area of 6,000 square feet and minimum width of 60 feet with a slope of ten percent or less;*
- (B) The minimum building site area shall be increased by 300 square feet for each one percent increase in slope over ten percent to and including 15 percent; and the minimum width shall be increased by one foot for each 500 square feet of additional area required;*
- (C) Building sites having a slope of more than 15 percent, shall increase in area above 7,000 square feet, and a minimum width of 65 feet, at a rate of 1,000 square feet of area and three feet of width for each one percent increase in slope; and*
- (D) Fractions shall be disregarded and dropped in all computations made under this section.*

These changes have resulted in almost every single-residential property in Fairfax becoming non-conforming regarding size or width, and any project proposed on them therefore requiring some type of discretionary approval (typically a Conditional Use Permit) from the Planning Commission due to noncomplying width or size.

Examples of projects that have had to be heard by the Planning Commission in the last couple years that, typically, should only require administrative approval, are: closet addition, window seat addition, bathroom addition, conversion of an existing porch into additional dining room space, and two entryway additions - one 18 square feet and the other 50 square foot in size, several fences, conversion of existing unfinished space to storage, and slide repair retaining walls.

The Commission agrees that its time would be better served in working on priority projects, and allowing minor projects such as those described above that comply with all zoning regulations except for lot width, to be administratively reviewed by staff. Properties/projects would have to be in compliance with zoning standards such as setbacks, height, FAR, and lot coverage, and they would not be 50 % remodels. Fifty percent remodels and projects not complying with the above regulations on substandard width parcels, or on parcels with substandard parking for the zone they are located in, would still come before the Commission.

Changing the review of such projects to administrative approval by staff would:

- Require the same level of staff review, but would not involve a public hearing before the Planning Commission.
- Free up considerable staff and Planning Commission time to focus on more substantive program priorities such as those discussed previously in this report.
- Reduce the review time and expense burden on homeowners and other applicants, thereby reducing the incentive by residents to install improvements without the necessary Town approvals.

It is therefore recommended that the Town Code regulations that trigger discretionary review solely due to inadequate lot width be eliminated.

(4) Simplify Tree Permit requirements

The following amendments are recommended to Town Code Chapter 8.36 Trees:

- 1) Staff review of tree removal permits that are submitted with a report by an ISA Certified Arborist that does not provide tree cutting services, indicating a tree is diseased or dying to a point where it is not salvageable.
- 2) Staff review of tree removal requests where the tree is damaging a residence.
- 3) Grant the Planning Commission authority to approve tree removal requests as it relates to the planning application they are reviewing. Currently, the Tree Committee has to review the tree removal aspects of such projects. This creates situations wherein the Planning Commission and Tree Committee both have to approve the request. If the PC approves a project that necessitates tree removal, the Tree Committee is then required to review the request. If the Tree Committee denies the tree removal permit, the project has to go back to Planning Commission for reconsideration. If the Tree Committee reviews a project's request for tree removal first, it could result in an applicant modifying a project to satisfy the Tree Committee, then having the project changed by the Planning Commission, and having to go back to the Tree Committee again to review the Planning Commission changes.

As a practical matter, it is staff's understanding that the Tree Committee rarely, if ever, subsequently denies a tree removal application once the Planning Commission has approved a project that requires that removal. Therefore, the current review by the Tree Committee on Planning Commission-reviewed projects amounts to an additional time-consuming and inefficient process for both staff and the applicant.

These changes would not reduce the level of review for any proposed tree removal, but would substantially reduce the procedural burden currently experienced by many applicants and staff

(5) Allow ministerial review of certain applications

Fence height variances. With adoption of appropriate design standards, authorize staff to approve exceptions to the height limits if certain conditions or standards occur. For example:

- 1) where fences are stepped down the hillside and only small portions of the fence exceed the 6-foot setback.
- 2) Where adjoining residential properties have significantly different elevations, consider allowing side yard fences to exceed 6 feet in height. Standards could be included requiring the uphill property owner desiring the taller fence to step the fence back to allow room for plantings on the downhill neighbor's side of the fence, and getting both neighbors to sign the application to assure their mutual consent to the project.

Encroachment permits. Allow staff to administratively issue encroachment permits for entry stairways in the public right-of-way that do not exceed a certain height above grade (for example, 2 feet). We would also include standards for approval such as the stairs do not eliminate or interfere with an existing on-street public parking space.

(6) Discretionary permit approval expiration

Town Code §17.072.140 contains an expiration time limit of one (1) year for Hill Area Residential Development Permits and Variances if an applicant does not obtain a building permit within 1 year of approval. A similar expiration period should be applied to all discretionary permits. The Town Attorney agrees with a consistent expiration period. Currently, Use Permits, Design Review Permits, Excavation Permits and Sign Permits do not have expiration periods, with the occasional result that projects are not completed in a timely manner without penalty. Such projects are often eyesores – nobody wants to be next to a construction site for long periods of time.

Some permits such as Excavation, or where construction periods are limited by resource considerations, could qualify for an extension if an applicant could demonstrate events beyond his/her control took place, or they had made good faith efforts to complete a project in a timely manner.