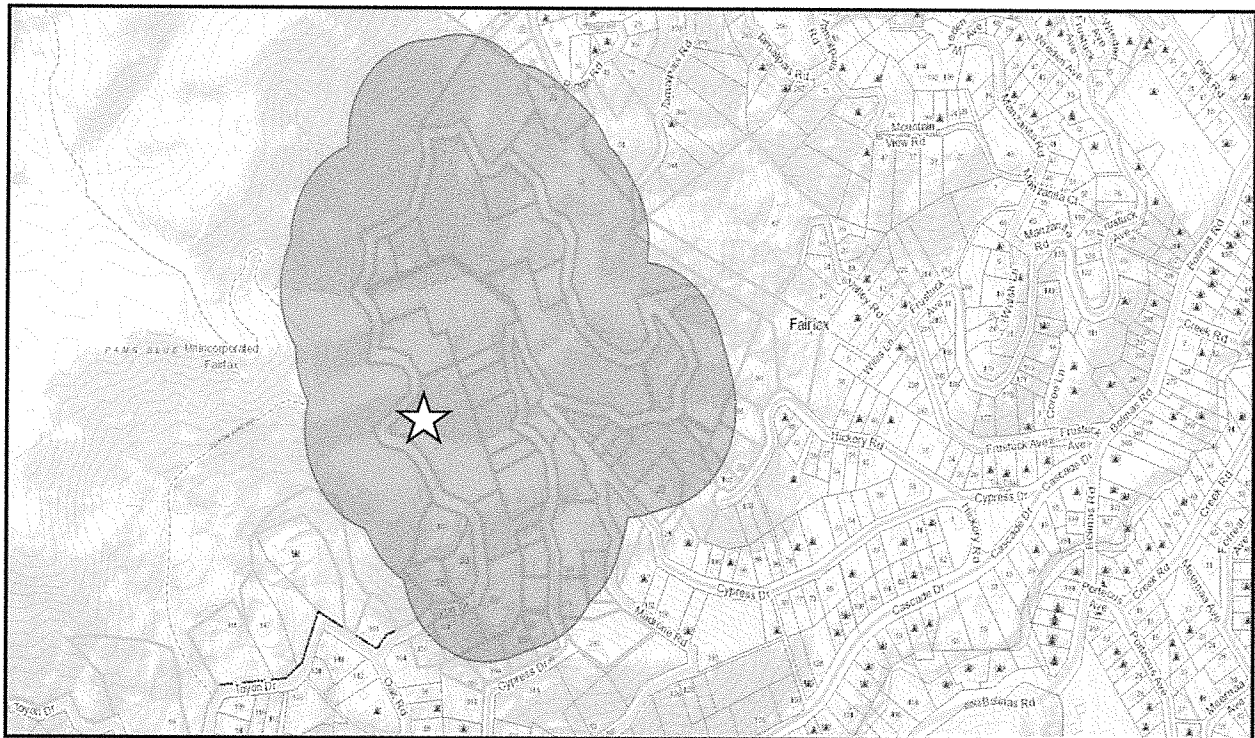


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: November 16, 2017
FROM: Linda Neal, Principal Planner
LOCATION: 200 Toyon Road; Assessor's Parcel Numbers 003-161-01 and 003-171-01 through 08
ZONING: Residential Single-family RS-6 Zone
PROJECT: Driveway and single-family residence
ACTION: Hill Area Residential Development, Design Review, Encroachment and Excavation Permits, Retaining Wall Height Variances, and Exception from the 20 foot minimum access drive width requirement; Application # 17-40
APPLICANT: Jerry Frate, Architect
OWNER: Ben Ross
CEQA STATUS: No Determination made, Public Resources Code 21080(b)(5).



200 TOYON ROAD

DESCRIPTION

Applications for Hill Area Residential Development, Excavation, Design Review, Encroachment and access width exception were submitted on March 30, 2016. The project was declared complete on October 26, 2017.

The proposed project consists of the following: a) construction of a 2-story, 30-foot, 10-inch-tall, 4,948 square-foot residential structure, consisting of a 4,463 square-foot main residence with 3,805 square feet of area on the upper (main) floor and 658 square-foot lower story, which includes a pond; b) a 485 square-foot accessory dwelling unit on the upper story of the structure; c) an attached 504 square-foot carport on the south end of the upper story; d) 1,020 square feet of storage/crawl space is proposed on the lower level, and a total of 2,285 square feet of decks are proposed on the downhill (east) side of the residence (See plan sheets A-2 and A-3 for the floor plans). The project also includes: e) construction of a 459-foot-long, 16-foot-wide access driveway/roadway extension on the Toyon Road right-of-way, with a 79-foot-long fire equipment pullout widening the driveway to 24 feet, and a fire apparatus hammerhead turn-around located 100 feet south of the residential structure (See sheets C1 through C5 of the project plans); f) re-grading an 80-foot-long section of an existing hiking trail that connects from the public open space west of the Toyon Road right-of-way to the proposed driveway/roadway (see sheet C1); and g) installation of two 15,000 gallon water tanks. Total proposed project grading consists of 1,615 cubic yards of cut and 856 cubic yards of, for a net off-haul of 759 cubic yards.

The proposed residential structure would contain 4 bedrooms, 3½ bathrooms, a family room, living room, laundry room, dining room, kitchen, a studio accessory dwelling unit (ADU) on the 2nd story, and an interior stairway to the lower 1st story where the indoor pond is proposed. A 1,044 square-foot deck runs along the length of the upper 2nd story and incorporates 2 exterior stairways down to a 270 square-foot, 1st story deck which would provide an exterior access to the 1st floor living space/pond area.

The proposed 459-foot-long driveway/roadway would connect from the end of the pavement on Toyon Road, along the currently unimproved Toyon right-of-way to the proposed residential structure. The applicant is requesting an exception from the 20-foot wide minimum roadway width, to be allowed to construct a 16-foot wide driveway instead.

Retaining walls are proposed on both the uphill and downhill sides of the driveway, running the full length of the driveway. Variances from the 6-foot maximum retaining wall height feet are requested for both the uphill and downhill driveway retaining walls, and for the new right-of-way connecting pathway.

The retaining wall proposed on the driveway's eastern (downhill) side would vary in height from 2.4 feet to 17.4 feet. The retaining wall on the uphill (west) side of the driveway would vary in height from 1 to 11 feet,

Two 15,000 gallon (each) water tanks are proposed on the west side of the driveway, adjacent to the hammerhead turnaround.

A 10-foot-wide access 'road' is proposed to run from the edge of the driveway up to the existing path on the Toyon Road right-of-way, to (continue to) provide public access to the right-of-way and the open space above the site. As proposed, persons currently walking along the Toyon Road dirt road/pathway would walk on the new driveway to the proposed 10-foot-wide road/pathway, then uphill to the existing pathway on the Toyon Road right-of-way. A retaining wall is proposed on the uphill side of the 10-foot road/pathway, with a maximum height of 11 feet. This retaining wall is subject to a retaining wall height variance to be allowed to exceed the 6-foot maximum height.

A path with a retaining wall on the uphill side is proposed along the western side of the house. The path is to allow for an access walkway and light into the west-facing windows. The retaining wall will also extend beyond the house to provide level area for an additional parking space and vehicle maneuvering area, and would range from 2 feet to 11 feet in height, requiring another retaining wall height variance.

All retaining walls will be of poured concrete. Information on the total cubic yards of concrete required for the proposed project, including retaining walls, is not available, but staff roughly estimates it will be well in excess of 100 cubic yards.

The sewer, water, PG & E and cable lines would run in a joint trench underneath the driveway from the improved portion of Toyon Road.

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

	Front Setback	Rear Setback	Combined Front/Rear Setback	Side Setbacks	Combined Side Setbacks	Floor Area Ratio	Lot Coverage	Height, Number of Stories
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	35 ft., 3 stories
Proposed	6 ft.	84 ft.	90 ft.	268 ft. & 348 ft.	616 ft.	.01	.01	35 ft., 2 stories

BACKGROUND

The 10.9 acre project site is located at the terminus of the improved portion of Toyon Road. The property slopes down in a northerly direction from the dirt road/path at a rate of 55 to 65%. A narrow graded dirt road that quickly narrows to a path that runs along the south boundary of the site is proposed as the location for the 459-foot-long access roadway to the proposed residence. The proposed access would be over undeveloped Toyon Road right-of-way. The nine lots that formerly comprised the property were merged into one lot by the Town on June 28, 1984.

In May 2002 the owner submitted an application for a roadway width variance, requesting that the Toyon roadway extension that would be used to access a future residence on his property be only 14 feet wide instead of the 20ft required by the Town Code for a public road. No application for a residence accompanied the roadway width variance application.

On August 16, 2002 the Planning Commission approved the for the 14-foot-wide extension of Toyon Road, not exceeding a length of approximately 260 fee (Attachment B, 2002 Planning Commission meeting minutes). The Commission's action was brought before the Fairfax Town Council via a Directed Referral by a Councilmember in November2002, and the Town Council denied the Directed Referral and granted the variance (Attachment C –minutes from the November 2002 Town Council meeting).

The roadway width variance approval expired in 2004.

In 2005 the applicant submitted an application that included both the Toyon Road extension and preliminary plans for a 4,987-square-foot, residence with an additional lower 2,190-square-foot storage area with floor to ceiling windows, a pond area in the center with a deck and stairways to the lower portion of the site below the house on the east side. .

The Planning Commission reviewed the application in May 2005 and continued the project (Attachment D – minutes from the 5/19/05 Commission meeting). Revised plans were submitted in April, 2008. A complete resubmittal was never submitted, and was ultimately withdrawn by the applicant in January 2011.

The 2008 revised resubmittal also showed the project site as being divided into 2 parcels, however the applicant never filed a formal land division application.

CEQA Determination

In 2005 when the applicant submitted a very similar project, for this property, the project was determined to be categorically exempt under the California Environmental Quality Act.

During the review for the current application, the Marin County Open Space District brought to our attention that the Napa False Indigo, a listed California Rare Plant Rank 1B had been found on the open space property directly uphill and west of the site (see Attachment E – e-mail from Marin County Open Space). A Fairfax Resident also advised the Town that they had identified a Northern Spotted Owl nesting site on the project site. Furthermore, the current project raises questions about compliance with some of the Town's recently updated (2012) General Plan policies and programs.

As a result of this new information, staff notified the owner that an Initial Study would be required for the project unless he provided studies by persons qualified to perform a

rare plant survey, and a habitat assessment for the endangered owl species, indicating no listed species were potentially present.

The applicant subsequently provided reports which did not find the Napa False Indigo or suitable nesting or roosting habitat for the Northern Spotted Owl within the roadway or house footprint (the endangered species reports are contained in the applicant's supplemental information packet, which is folded into the project plan sets). Three patches of the Napa False Indigo were found on adjoining open space land and the public right-of-way within 100 feet to the north of the residence. No evidence of Northern Spotted Owl nesting or roosting sites was found.

Staff is recommending denial of the project. Therefore, pursuant to Public Resources Code § 21080(b)(5), no further CEQA analysis needs to be conducted,. If the Planning Commission determines that review of this project should continue, staff would revisit the question of appropriate CEQA review and determination.

Required Discretionary Permits

The project requires the approval of a Hill Area Residential Development permit, Encroachment Permit, Retaining Wall Height Variance, Excavation Permit, Design Review Permit, and an exception to the public roadway development standards to construct a driveway within the public roadway easement at a width of 16 feet. The required discretionary permits and analysis of project compliance with the related sections of the Town Code and Zoning Ordinance are found below.

Hill Area Residential Development

The purpose of the Hill Area Residential Development Permit is to encourage the maximum retention of natural topographic features, minimize grading of hillside areas, provide a safe means of ingress and egress to and within hillside areas, minimize water run-off and soils erosion during and after construction, prevent loss of life, reduce injuries and property damage and minimize economic dislocations from geologic hazards, and to ensure that infill development on hillside lots is of a size and scale appropriate to the property and is consistent with other properties in the vicinity under the same zone classification [Town Code sections 17.072.010(A) and (B)].

The proposed project is inconsistent with Hill Area Residential Development Permit Development Standards as follows:

1. Town Code § 17.072.090(C)(1) requires graded slopes to be sculptured and contoured to blend with natural terrain. The use of retaining walls extending more than 450 feet and reaching over 17 feet in height demonstrates the inability to of the proposed project to blend with the natural terrain.
2. Town Code § 17.072.090(C)(2) indicates that the height of retaining walls shall be minimized within Hill Area Residential Development Overlay Zones. An

access driveway extending to the center of the site, with retaining walls reaching over 17 feet in height, does not minimize the retaining wall height.

3. Town Code §17.072.090(D)(2) indicates that projects within the Hill Area Residential Development Overlay shall be designed to minimize disruption of existing ecosystems. The driveway to the center of the site, flanked by retaining walls up to 17 feet in height, adversely affects uphill-downhill wildlife movement and does not minimize the disruption of the existing ecosystems of the site.

As will be discussed in greater detail below, there are numerous concerns with the project's location and design, including substantial visibility, extensive grading, location several hundred feet from any currently maintained road, and potential for substantial runoff.

Drainage and Slope Stability

The Town Engineer has reviewed the entire body of information provided by the applicant on the project, including the project engineering and architectural plans as well as the geotechnical reports by Geoengineering, Inc. and the drainage report prepared by DVC Group (included in the public packet). After completing his review and hiking the project site on more than one occasion, he has determined that the project can be constructed without creating any significant geologic or hydrologic hazards for adjacent public or private properties, as long as certain conditions are met. The Town Engineer is still concerned about the drainage plan proposed for the project which places perforated storage pipes underneath the access driveway which could eventually result in water build-up under the road in back of the retaining wall, potentially causing pressure and stability problems or saturating the ground when the water eventually surfaces below the driveway and proceeds downhill as seepage flow. The two discharges closest to the beginning of the proposed driveway are of considerable concern because the intention is to disperse drainage water to the steep hillside below the access road using pipe dissipaters. Although the drainage has not yet been adequately addressed, the Town Engineer has indicated that routing all the drainage from the improvements to the natural drainage swale north of the house, where the creek appears to have eroded the banks down to fairly stable bedrock, could allow the construction to occur without increasing the landslide potential of the property. He believes that if the development is approved, these issues could be addressed prior to the issuance of the building permit (Attachment F – Town Engineer's memorandum dated 8/8/17).

House Siting and Design

The house design and siting do not comply with the purpose section of the Hill Area Residential Development Chapter 17.072. The house has been designed with an elongated footprint that is 163 feet long. Including the carport attached to the south side of the structure, it totals 187 feet in length. For visual comparison of this length,

the Good Earth Market's length on Broadway is 157 feet, and the Fairfax Market frontage is 186 feet in length.

Staff has been unable to locate another single-family residential structure within the Fairfax Town limits with a similar length. The residence which may have the most similar design, and which is visible from the project site, is at 10 Fawn Ridge Road. It also has an elongated design of 135 feet in length and is 2,846 square-feet in size with 3 bedrooms and 2 bathrooms (Attachment G). While the structure's its chevron design orients the long axis along the slope contours, the largely single story design with up to 20 feet of slope under the building footprint results in underfloor area that could easily be used for interior square footage, but aside from approximately 658 square feet of indoor pond area, is un-utilized. The result in a structure that presents the visual mass and bulk of a structure almost twice its size, with only a lower story deck-element providing any visual relief to the otherwise homogenous understory.

The siting of the house is similarly problematic. While staff can appreciate that an owner of a 10+ acre property would prefer to situate a residence well away from any neighbors, the site's extreme slope constraints combined with proposed residential location results in a driveway that requires excessive retaining walls (up to over 17 feet in height) on both the uphill and downhill sides. The thousands of square feet of impervious surface created by the lengthy driveway and large roof area result in excessive runoff.

The applicant has not demonstrated that an alternative site much closer to the existing Toyon Road pavement would be infeasible. Furthermore, failure to use an underfloor area of up to 19 feet in height results in an uncounted extra story that effectively almost doubles the mass and bulk of an already very large house. To date, the applicant has neither demonstrated a willingness to consider alternative project locations and design, nor provided any substantive information on why an alternative location would be infeasible.

Design Review

Town Code §17.020.030(A) requires that the design of new residences be reviewed and approved by the Fairfax Planning Commission. Design Review criteria contained in Town Code §17.020.040(A) through (M) are used in reviewing a proposal for a new residence. These criteria include but are not limited to the following:

“The proposed development shall create a well composed design harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community”.

“The size and design of the structure shall be considered for the purpose of determining that the structure is in proportion to its building site and that it has balance and unity among its external features so as to present a harmonious appearance”.

“The extent to which the structure conforms to the general character of other structures in the vicinity insofar as the character can be ascertained and is found to be architecturally desirable”.

“The extent to which natural features, including trees, shrubs, creeks and rocks and the natural grade of the site are to be retained”.

As indicated above, the proposed residence’s ostensible square footage is already larger than most of the residences found throughout the Toyon Road neighborhood and the Town. The nearest houses, at 161, 179, 181, and 183 Toyon Road are all less than 3,000 square feet in size (Attachment G- house size comparisons). Research on houses on similar larger sized parcels within the Town limits revealed that the largest house, approved by the Commission currently under construction are for a 3,710 square foot house and ADU (total square footage of both units) at 615 Oak Manor Drive on a 50 acre site. As noted above, the effective size of the house, with its extensive underutilized underfloor area, is considerably larger than the stated 4,463 square feet, potentially in excess of 6,000 square feet.

Construction of the driveway and house would require the excavation and fill of 2,471 cubic yards of material. The 759 cubic yards being removed from the site, will require more than 75 large (10-yard) dump truck trips. The more than 100 cubic yards of concrete necessary for the extensive retaining walls and house foundations will in turn require dozens of concrete truck trips.

The proposed project will also require the removal of 102 trees (33 California Bays, 11 Black Oaks, 43 Madrones and 15 Coast Live Oaks), a considerable number of which are identified in the arborist’s report as in good health. The number of trees proposed for removal is due in part to the cut and fill associated with the 459-foot-long driveway traversing a very steep cross-slope to the approximate center of the site, and the very large and inefficient building footprint.

The structure would be visible from parcels on upper Ridge Road, Fawn Ridge, and portions of Bolinas, Cascade Road, Crest Road, and Sir Francis Drake. Alternative locations may be feasible that would result in only a small fraction of the proposed grading, off-haul, and concrete deliveries. At a minimum, an alternative house design could be proposed that would result in approximately half the building footprint for the desired square footage.

The structure does not comply with the Design Review Criteria. The structure does not conform to the general character of other structures in the vicinity, requires a significant amount of site disturbance for grading and building the driveway, water tank pad, house foundation and supply lines. The construction will also remove a large swath of mature trees from a 636 foot-long section (driveway and house) of the hillside. Residences throughout the hillsides of Fairfax are typically designed with relatively small footprints and floor plans that reflect the slope by stepping down the hillside and following the hillside contours.

If the Commission would like to view residences that have been designed and built on properties with slopes similar to the project site, they can be viewed at 126 and 128 Madrone Road (both with slopes in excess of 60%) and at 205 and 214 Pine Drive (both with slopes in excess of 50%). All of these homes have compact building footprints that step down the hillside. These are just some examples as similar residences can be found throughout the Town although none have the large square footage proposed by this application design.

Excavation

Town Code §17.20.080 requires that an Excavation Permit be obtained from the Planning Commission for excavation and fill amounts of over 100 cubic yards. In order to approve an Excavation Permit, the Commission must be able to find that the health, safety and welfare of the public will not be adversely affected, that adjacent properties are adequately protected by project investigation and design from geologic and hydrologic problems, that the amount of excavation or fill proposed is not more than is required to allow the owner substantial use of his or her property, that the visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary, that no more natural landscaping than is necessary will be removed by the project, and that the time of year during which the construction will take place is such that the work will not result in excessive siltation from storm run-off nor prolonged exposure of unstable slopes.

The project would require the excavation and fill of 2,471 cubic yards of material with 759 cubic yards being removed from the site which will require 75-85 large dump truck trips using Toyon Road, portions of which are reported as not Town maintained.

As noted elsewhere in this staff report, the project will be visible from numerous public (and private) viewing areas around Town, including Crest, Cascade, Bolinas, and Sir Francis Drake. If a less conspicuous alternative building design were pursued, with a development location much closer to the existing paved portion of Toyon Road, it would still afford a developer extensive vista views while presenting a much smaller visual impact to the community.

Despite requests by staff, the applicant has not presented information or studies to document that the proposed residential location is the only feasible place on the site available to build a residence. Other potential locations may be available on the site closer to the improved portion of Toyon Road. These sites, as noted above, if feasible would require much less site disturbance than the proposed project. The site immediately adjacent to the improved portion of Toyon Road has an average slope of approximately 60%.

Retaining Wall Height Variance

The retaining wall upslope of the access driveway and the house will range from 1 foot in height up to 11 feet. On the downslope side of the access drive the wall will range

from 3 feet 8 inches to 17 feet 4 inches in height. The access 'road' from the proposed driveway to the Toyon Road right-of-way requires a retaining wall varying between 1 and 11 feet in height. Town Code § 17.044.080(B)(2) limits the height of retaining walls to 6 feet in height anywhere behind the 6 foot front yard setback and to 4 feet in height within the 6-foot front yard setback. Therefore, the portions of the retaining walls on the site that exceed 4 feet in the front setback and the walls that exceed 6 feet in height in other locations will require the approval of a Retaining Wall Height Variance.

In order to approve the Retaining Wall Height Variances, the Commission must be able to make the findings listed in Town Code §17.028.070(A)(1) through (4), which include the finding that approving the Variance will not be a grant of special privilege. In the past 31 years the Town has never granted a Retaining Wall Height Variance to allow the construction of a retaining wall that reaches 17 feet in height. This fact and the reality that a residential structure might potentially be located much closer to the end of the already developed portion of Toyon Road and require much smaller retaining walls would make approval of this request a grant of special privilege. Conversely, granting such variances might set a precedent for future requests for over-height retaining walls.

Encroachment Permit/Exception to Roadway Standards

The project requires the approval of an encroachment permit and an exception to the General Development road standards. Town Code § 12.32 gives the Planning Commission the authority to grant encroachment permits for private improvements within the public road easements that are not being used by the general public. Town Code § 16.24.040(A)(1) requires that streets and alleys have a minimum width of 20 feet. The applicant has proposed a 16 foot wide private driveway to be located mostly within the public easement. The Town Attorney does not support the proposed private driveway development in the public easement and recommends the project be redesigned to relocate and minimize the private access and parking improvements within the public easement (Attachment I – Town Attorney's e-mail dated 5/27/16).

It should be noted that members of the public currently use the dirt path in the Toyon Road right-of-way to access the open space above the site. The finding that the public easement is not currently being used by the public, Town Code § 12.32.020, cannot be made. As noted by the Fairfax Open Space Committee, the proposed design would also require hikers to walk on the applicant's driveway (for several hundred feet) before reaching the proposed new access 'road' back to the Toyon Road right-of-way pathway and the public open space trail.

The applicant has not demonstrated that he is unable to enjoy substantial use of his property without using a substantial portion of the public right-of-way for a private driveway. A residence with a much smaller footprint can be designed to step down the hillside and can possibly be located much closer to the terminus of Toyon Road, requiring use of a much smaller area of the public right-of-way for private driveway improvements.

General Plan Compliance

The project does not conform to the following 2010-2012 Fairfax General Plan Goals, Policies and Objectives:

Goal LU-1: Preserve scenic and natural resources.

Goal LU-5: Manage future growth while preserving the area's natural resources.

Goal LU-7: Preserve community and neighborhood character.

Objective LU-1.2: Limit development on hillside and ridgeline parcels to preserve and enhance the scenic qualities of the Town.

Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.

Policy LU-5.1.1: New and renewed development shall occur primarily as infill development.

Policy LU- Development should be discouraged in areas not served by existing utilities.

Policy LU- 7.1.5.: New and renewed residential development outside the Town Center area should be compatible with and subordinate to, the topography, wildlife corridors and habitat, natural vegetation pattern, hydrology and geotechnical characteristics of the area.

Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of the structures in the vicinity.

Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Fairfax Open Space Committee

The Fairfax Open Space Committee has submitted a letter regarding the project citing the fact that the Town Council approved a Resolution identifying this property as a priority for preservation as open space at the request of the Fairfax Open Space Committee. The site is also identified as suitable for open space in the 2010-2030 Fairfax General Plan. They also indicate that the plan does not identify all the trails used by the public over this property, does little to preserve the open space values of the property, has a scale that is well outside the characteristics of the adjoining neighborhood development, does nothing to address the large scale of the residence impact on the visual resources of the site, and that there are vestiges of historical

artifacts on the property that are not identified on the plans, among other things (Attachment J – letter from FOSC).

Other Agency Comments/Conditions

Ross Valley Fire Department

RVFD submitted written requirements which are summarized as follows:

The site is in the Wildland Urban Interface area and all new construction must comply with Chapter 7A of the California Building Code and the 2006 International Wildland Interface Code, fire apparatus access shall be provided to within 150 feet of the exterior of all portions of the exterior of the structure, the Ross Valley Fire Chief has agreed that for fire response purposes, the access can be reduced below the required 20 feet to 16 feet if designated a private driveway but the driveway will need to be provided with a turnaround and turnouts, and no portion of the driveway shall be used for parking and shall be marked as a fire lane and the access driveway construction shall be completed before the delivery of any materials to be used in the construction of the structure.

The proposed use of two 15,000 gallon water tanks, instead of installation of a municipal fire hydrant having an available fire flow of 2,000 gallons per minute for a 2 hour duration, will require either a natural gas fire pump or electric pump with a natural gas backup generator in a fire rated pump house.

A fire sprinkler system, carbon monoxide and smoke detectors and address numbers that comply with the fire department requirements shall be installed prior to issuance of an occupancy permit.

Marin Municipal Water District (MMWD)

MMWD submitted written comments which are summarized as follows: A Low Pressure Water Service Application is required including submittal of the building permit plans and fees, the structures foundation must be completed within 120 days of the date of the application, the plans must comply with all the indoor and outdoor District Code requirements contained in Title 3, a gray water system may be required in compliance with Ordinance 429 and backflow prevention requirements must be met prior to occupancy.

Also, because the parcel is not currently being served and no water has been allocated to it, the water main will have to be extended so that the structure is no more than 125 feet from the main, and the applicant will have to enter into a pipeline extension agreement for the installation of the necessary facilities and the agreement must be approved by the District Board of Directors. All costs for installation would be borne by the applicant if the residence is approved as proposed.

MMWD and the Ross Valley Fire Department have determined that the two on-site 15,000 gallon tanks will be large enough to provide potable water storage and to serve the required fire sprinkler system for the structure.

Ross Valley Sanitary District

RVSD submitted written comments which are summarized as follows: The public sewer must be extended to serve the building, a sewer extension application must be filed and be approved by the District with the applicable fees and plans and once the extension is constructed and accepted by the District a sewer connection permit is required for each building having sewer service.

Fairfax Police, Public Works and Building Departments

The police, public works and the building departments did not provide conditions of approval or comments on the project.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to deny application # 17-40 by adopting Resolution No. 17-38 setting forth the findings for the project denial.

ATTACHMENTS

- Attachment A – Resolution No. 17-38
- Attachment B – Minutes from the 8/15/02 and 9/19/02 Commission meetings'
- Attachment C – 11/12/02 Council minutes
- Attachment D – 5/19/05 Commission minutes
- Attachment E – E-mail from Marin County Open Space
- Attachment F - Town Engineer's final memo on the project dated 8/8/17
- Attachment G – Information regarding 10 Fawn Ridge
- Attachment H – Neighborhood and Town house sizes
- Attachment I - Town Attorney e-mail on access road extension
- Attachment J – Fairfax Open Space Committee letter dated April 27, 2016
- Attachment K - Story pole plan

RESOLUTION 17-38

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX DENYING APPLICATION NO. 17-XX FOR DEVELOPMENT OF 200 TOYON ROAD (APN NUMBERS 003-161-01, 003-171-01, 003-171-02 THROUGH 08) WITH AN ACCESS DRIVEWAY WITHIN THE TOYON ROAD PUBLIC ROADWAY EASEMENT AND A 4,948 SQUARE-FOOT RESIDENTIAL STRUCTURE

WHEREAS, on November 16, 2017, Ben Ross ("Applicant") submitted an application which was deemed complete on October 10, 2017, for a Hill Area Residential Development Permit, an Encroachment Permit, an Excavation Permit, a Design Review Permit, a Retaining Wall Height Variance and an Exception to the 20 foot access road requirements to install a 16 foot wide private driveway within the Toyon Road public right-of-way; and,

WHEREAS, on November 16, 2017, the Planning Commission held a duly noticed public hearing to consider the applicant's request for a Hill Area Residential Development Permit, Encroachment Permit, Excavation Permit, Design Review Permit, Retaining Wall Height Variance and request for an exception to the 20 foot access road requirement to install a 16 foot wide private driveway within the Toyon Road public right-of-way; and,

WHEREAS, at the October 16, 2017, public hearing the Planning Commission considered a staff report and its exhibits and the project development plans and heard from the Applicant, interested members of the public, and staff; and,

WHEREAS, at the conclusion of the November 16, 2017, public hearing the Planning Commission found that:

1. The findings required by § 17.072.110 for approval of the Hill Area Residential Development permit for the driveway and residence could not be made, given the details of the proposed project.
2. The proposed Project failed to conform to applicable portions of the General Plan;

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED, by the Planning Commission of the Town of Fairfax;

Section 1. Town Code §17.072.110, of the Hill Area Residential Development Overlay Zone, sets forth five findings that must be made in order for the Planning Commission to grant a Hill Area Residential Development permit. The Planning Commission has determined that the proposed Project does not meet the first, second or fifth of the required findings as follows:

Section 17.072.110 (A), states that the proposed development must be consistent with the General Plan, other adopted codes and policies of the Town and be consistent with the purpose and intent of Title 17, the Zoning Ordinance.

ATTACHMENT **A**

The project is not consistent with the following 2010-2012 Fairfax General Plan Goals, Policies and Objectives:

1. Goal LU-1: Preserve scenic and natural resources.
2. Goal LU-5: Manage future growth while preserving the area's natural resources.
3. Goal LU-7: Preserve community and neighborhood character.
4. Objective LU-1.2: Limit development on hillside and ridgeline parcels to preserve and enhance the scenic qualities of the Town.
5. Policy LU-1.2.3: New and renewed development shall be designed and located so as to minimize the visual mass. The Town will require exterior materials and colors that blend the exterior appearance of structures with the surrounding natural landscape, allowing for architectural diversity.
6. Policy LU-5.1.1: New and renewed development shall occur primarily as infill development.
7. Policy LU- Development should be discouraged in areas not served by existing utilities.
8. Policy LU- 7.1.5.: New and renewed residential development outside the Town Center area should be compatible with and subordinate to, the topography, wildlife corridors and habitat, natural vegetation pattern, hydrology and geotechnical characteristics of the area.
9. Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of the structures in the vicinity.
10. Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

The development also does not comply with the Hill Area Residential Development Overlay Zone as follows:

1. Town Code § 17.072.010(B)(1), Purpose of the HRD Overlay Zone District, is to encourage maximum retention of natural topographic features such as drainage ways, streams, slopes, ridgelines, rock outcroppings, vistas, and natural plant formations. The project can be relocated and redesigned to be more in compliant with this purpose section of the Town Code if it is moved closer to the developed area of Toyon Road and the residential structure is redesigned to

have a minimal impact on the natural topography and vegetation and wildlife of the site with a compact footprint that incorporates multiple living levels and fits in with the character of other structure found in the nearby developed area of Toyon Road.

2. Town Code § 17.072.010(B)(2) identifies another purpose of the HRD Overlay Zone is to minimize grading in hillside areas. The project location and design will result in an excavation/fill amount of 2,471 cubic yards of material and relocating the house closer to the developed portion of Toyon Road would decrease this amount substantially.
3. Town Code § 17.072.010(B)(6), sets forth the final purpose of the HRD Overlay Zone District is to ensure that infill development on hillside lots is of a size and scale appropriate to the property and consistent with other properties in vicinity under the same zone classification.
4. Town Code § 17.072.090(C)(3), Development Standards, Topographical, requires that the height of retaining walls shall be minimized within Hill Area Residential Development Overlay Zones. The proposed project incorporates an access driveway to the center of the site with retaining walls reaching over 17 feet in height and does not minimize the height of retaining walls. Relocating a residence immediately adjacent to, or nearer to, the end of the improved portion of Toyon Road and redesigning the residence would decrease the height of the walls.
5. Town Code §17.072.090(D)(2), Development Standards, Ecological, indicates that projects within the Hill Area Residential Development Overlay Zone shall be designed to minimize disruption of existing ecosystems. Location of the residence in the center of the site with the footprint elongated to 187 feet and accessed by a driveway that exceeds 450 feet in length does not minimize the disruption of the existing ecosystems of the site.
6. Town Code § 17.072.090(D)(2), Development Standards, Ecological, indicates that "In areas of diverse wildlife habitat, disruption of trees, shrubs and natural vegetative cover shall be minimized". The project is located in an area of diverse wildlife habitat and due to the residence location and its size, does not minimize the disruption of the trees, shrubs and natural vegetation on the site.

Town Code §17.072.110(B) sets forth that the "Site planning preserve identified natural features". The project encompasses the excavation and fill of 2,471 cubic yards of material from the hillside site and will result in the removal of 102 trees from the site, many of them identified as heritage trees in the Fairfax Tree Ordinance. Therefore, the project does not preserve identified natural features of the site.

Town Code 17.110 (E) requires that the Commission be able to find that "The proposed development harmonizes with the surrounding residential development, meets the design review criteria and does not result in the deterioration of significant view corridors". The development does not meet the design review criteria in that; 1) the development will not create a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community; 2) the structure does not conform to the general character of other structures in vicinity; and 3) the design of the project does not preserve the natural features of the site, including the retention of the hillside and the surrounding tree cover in as natural a condition as possible while still allowing the owner use of the property as a residential site.

Section 2. The Planning Commission likewise determined that it could not approve the proposed project because it could not make the following findings required to allow the excavation of 2,471 cubic yards of material from the site:

1. The amount of excavation or fill proposed is not more than is required to allow the property owner substantial use of his or her property;
2. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary; and
3. Natural landscaping will not be removed by the project more than is necessary.

Section 3. Based on the foregoing, the Planning Commission of the Town of Fairfax does deny application No. 17-40 in its entirety.

The foregoing Resolution was adopted at a regular meeting of the Planning Commission of the Town of Fairfax held in said Town on the 16th day of November 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Chair, Norma Fragoso

Attest: _____
Ben Berto, Director of Planning and Building Services

8/15/02 COMMISSION MINUTES

AYES: Alvillar, Arguimbau, Craine, Hailer, Madsen, Chair Shaiken

NOES: None

Chair Shaiken said that this is the decision of this Planning Commission and any interested party may file a written appeal to the Town Council within 10 day. If there is no appeal the decision becomes final.

200 Toyon Road; request for a variance of the minimum roadway width in order to develop approximately 260 ft. of the currently unimproved Toyon Road right-of-way to provide access construction of a single family residence; Ben Ross, applicant; application # 02-30; Assessor's Parcel No. 3-161-01; Residential Single Family RS 6 Zone.

Senior Planner Neal read the staff report and recommended the Commission deny variance application #02-30 based on the findings in the staff report.

Commissioner Craine asked staff if the Commission could consider the road separately from the rest of the project.

Planning Director Kirkey said construction of the road and the residence do not have to be considered together.

Commissioner Madsen asked staff who would be responsible for maintaining the road.

Senior Planner Neal said historically the Town has required people to develop and maintain new roads. She said in the past when developers have offered the Town roads the Town has declined to accept them.

Commissioner Alvillar said she felt this would be a private road and not a public road.

Senior Planner Neal said it is a public road and if the applicants wanted to make it a private road they would have to go before the Council to request the Town abandon the public roadway.

Commissioner Arguimbau said the issue before the Commission is kind of abstract. He said since the Commission does where the proposed residence is going to be on the property the Commission does not know how long the driveway would need to be.

Senior Planner Neal said because the Public Works Director and the Town Engineer are against the 14-foot wide roadway, staff did not want the Engineer and staff to do a review of the proposed 14-foot wide roadway if the Commission was to deny the variance application. She said that is why staff separated the road width variance from the proposed new residence application.

David Faw, Planning Consultant for Mr. Ross, presented a drawing to the Commission showing the difference between a 14-foot wide driveway and a 20-foot wide driveway. He said there have been drainage studies, hydraulic analysis, soil reports and tree analysis. He said the last 200 feet of Toyon Road is degraded. He said the plan proposes retaining walls along that section of Toyon Road to support the roadway.

Commissioner Madsen said the Commission would still need to review the entire project when the proposed residence comes before the Commission.

Commissioner Arguimbau asked staff if the Commission grants the variance would that preclude the Commission from limiting the length of the road.

Planning Director Kirkey said the Commission could make a motion that defines the length and the width of the road. He said or the Commission could make a motion that defines the width of the roadway only and the length of the road could be determined as part of the application for the residence.

M/S, Arguimbau-Hailer, motion to approve application # 02-30 a 14' wide extension of Toyon Road without prejudice regarding the final length of the roadway when the Commission finally reviews the entire project.

Chair Shaiken urged the Commissioners not to approve this variance application until the complete project proposal is before the Commission.

Commissioner Hailer made an amendment to the motion that the maximum length of the roadway extension shall not exceed approximately 260 feet.

AYES: Alvillar, Arguimbau, Hailer, Madsen

NOES: Shaiken, Craine

Chair Shaiken said that this is the decision of this Planning Commission and any interested party may file a written appeal to the Town Council within 10 day. If there is no appeal the decision becomes final.

47 Scenic Road; request for a side setback variance to construct an internal stairway and 172 square foot addition to an existing single family residence; Marjolaine Tremblay-Silva, applicant; application # 02-32; Assessor's Parcel No. 1-133-03; Residential RD 5.5-7 Zone; CEQA categorically exempt per § 15305(a)

Senior Planner Neal read the staff report and recommended approval of application #02-32 based on the findings and conditions in the staff report.

Keith Silva, 43 Sequoia Road, spoke in favor of the project.

M/S, Madsen-Hailer, motion to approve application # 02-32 based on the findings and subject to the conditions listed in the staff report.

AYES: Alvillar, Arguimbau, Craine, Hailer, Madsen, Chair Shaiken

Chair Shaiken said that this is the decision of this Planning Commission and any interested party may file a written appeal to the Town Council within 10 day. If there is no appeal the decision becomes final.

PLANNING DIRECTORS REPORT ON THE TOWN COUNCIL MEETING

Planning Director Kirkey said at the last Town Council meeting, the Council had the first reading of the Floor Area Ratio Ordinance. He said the Council would have the second reading at their next meeting in September.

Commissioner Alvillar asked staff at the end of the meeting whether or not the Commission should have made findings for approval of 200 Toyon Road.

9/19/02 COMMISSION MINUTES

Commissioner Craine expressed concern about the noticing of the next General Plan Advisory Committee (GPAC) meeting, which is agendized for discussion of the housing element. He requested that the meeting be cancelled or renoticed since the GPAC is no longer working on the Housing Element.

Chair Shaiken said he was concerned that the public may show up at the meeting intending to speak about the housing element update.

Planning Director Kirkey said the notice would be revised and agendized for a discussion of the Circulation and Land Use Element of the General Plan.

Commissioner Alvillar expressed concern that the Downtown Study has not been completed because it is critical to the development of the General Plan. She said the liberal wording of the Larry Kennings contracts with the Town could be used to satisfy the requirements of the Housing Element research.

Planning Director Kirkey said the Town Council directed staff to contract with Mr. Kennings for services in a number of different areas. He said regarding the Downtown Study, the former Interim Town Administrator directed the Planning Department to focus on completing the update of the Housing Element so the Downtown Study was put on a back burner. Mr. Kirkey said he would be preparing a staff report addressing the status of the Downtown Study and Mr. Kennings contracts; including how funds have been spent and how they have been utilized.

CONSENT ITEMS

200 Toyon Road; findings for approval of a roadway width variance that was approved at the August 22, 2002, Planning Commission meeting. The variance was approved for the development of approximately 260 ft. of the currently unimproved Toyon Road right-of-way to provide access for the construction of a single family residence; Ben Ross, applicant; application #02-30; Assessor's Parcel No. 3-161-01; Residential Single Family RS 6 Zone.

M/S Madsen-Herbert motion to adopt the findings for approval of a roadway width variance.

AYES: All

NOES: None

PUBLIC HEARING ITEMS

205 Scenic Road; continued consideration of a request for a Hill Area Residential Development HRD permit to construct a 2,236 square foot single family residence; Livio and Peggy Freitas, applicant; application #02-31; Assessor's Parcel Nos. 1-121-11 and 1-121-58; Residential Single Family RS 6 Zone: CEQA categorically exempt per § 15303(a).

Senior Planner Neal read the staff report and recommended approval of application #02-31 subject to the findings and conditions in the staff report.

Commissioner Arguimbau expressed concern about the proposed retaining wall in the right-of-way.

Senior Planner Neal said the applicants have now relocated the retaining wall back onto their property.

Commissioner Alvillar asked staff about the proposed driveway approach. She said according to her interpretation of the Town code, no driveway variance can be granted within 30 feet of any intersecting street.

11/12/02 Council Minutes

Dave Johansen, Fairfax, said that he opposed a war in Iraq but that he also opposed the Resolution; that the Council should limit its actions to Town issues and that it set a bad precedent to put forth frivolous resolutions that the Town did not have time for.

Jeff Hellman, Fairfax, said that the Resolution was a good place to start and thanked Mayor Brandborg for bringing it forward.

Councilmember Ghiringhelli said that he did not support the Resolution and opposed the language.

Vice Mayor Egger said that the September 11, 2001 attacks on the United States had been unspeakable; that Fairfax had been involved in world issues in the past; that it was not new for Fairfax to take a position against war; and that they should let the federal government know that other government bodies were concerned with the issue.

M/S, Tremaine/Egger, Motion to adopt Resolution No. 2265, A Resolution of the Town Council of the Town of Fairfax Opposing United States' Military Action Against Iraq, and to include "Be it further resolved that no war against Iraq be undertaken at any time by the United States without the explicit vote of the United Nations Charter endorsing such military action, and without a full debate and vote in the United States Congress under Article 1, Section 8 of the United States Constitution".

Roll Call Vote: Caldararo: AYE, Egger: AYE, Ghiringhelli: NO, Tremaine: AYE, Brandborg: AYE

PUBLIC HEARINGS

200 Toyon Drive, Directed Referral of Planning Commission adoption of findings for variance application #01-30, Councilmember Egger and review of opinion of Town Attorney regarding timeliness of appeal

Vice Mayor Egger presented the Directed Referral. He said that the Variance Code Section 17.16.070 was clear regarding the required findings; that when the Planning Commission acted on August 15, 2002, no findings had been made; that the findings had been brought back at the September 19, 2002 Planning Commission meeting and the approval of the variance took place at that time; that the period to file began with the adoption of the findings; and that he questioned whether the Planning Commission had the authority to reduce the requirements of private use of a public right-of-way.

David Faw, Planning Consultant representing the Applicant, said that at the September 19, 2002 meeting the Planning Commission had adopted findings and approved a variance permitting a roadway width of 14 feet where the Fairfax Town Code required a minimum roadway width of 20 feet for a public right-of-way; that the findings recommended for adoption stated that construction of a 14-foot wide roadway would have less impact on the natural topography, vegetation and neighbors than the 20-foot roadway required by the Town Code; that other public roads accessing other residences in the area were already 14-feet wide or narrower; and that a 14-foot wide roadway was the minimum required by the Fire Department's emergency response.

Town Attorney Brecher said that the findings should have been adopted at the time the Planning Commission acted on August 15, 2002; that the Town Code was clear that a Directed Referral or appeal had to be filed within 10 days of the action taken and therefore the referral was not timely; and that it was within the purview of the Planning Commission to revisit the item at any time.

Mayor Brandborg opened the public hearing.

Linda Christman, Assistant County Administrator, said that the process of Directed Referral was unique to Fairfax; that it did not follow the same process as the Planning Commission; and that it was time for the Town Council to look at the Directed Referral process and evaluate its effectiveness as a tool.

Michael Mackintosh, Fairfax, said that he would like to see the process for development change and that he would support a more transparent and open process.

Mayor Brandborg closed the public hearing.

Vice Mayor Egger said that the Directed Referral had been filed within ten days of the adoption of the findings; that he was attempting to correct a mistake; and that the roadway variance should not be approved prior to review of the house plans and the zoning for the ultimate build-out of the project.

Councilmember Ghiringhelli said that the Directed Referral had the appearance of harassment of an individual's property rights; that he disagreed with the Directed Referral process; that it was recorded in the Planning Commission minutes that, following the approval of the application, Chair Shaiken had noted that a written appeal to the Town Council could be filed within ten days and without an appeal the decision would become final.

Councilmember Tremaine said that as Councilmembers they each had the ability to file a Directed Referral; that without findings the Planning Commission decision was incomplete; and that a variance could not be approved without making findings.

M/S, Ghiringhelli/Brandborg, Motion to deny the Directed Referral of Planning Commission adoption of findings for variance application #02-30.

Roll Call Vote: Caldararo: NO, Egger: NO, Ghiringhelli: AYE, Tremaine: AYE, Brandborg: AYE

Mayor Brandborg adjourned the meeting for a ten-minute break at 10:05 p.m.

Discussion took place regarding the agenda and what items could be continued to the December meeting.

It was the consensus of the Council to hear the rest of the Public Hearings, "Request for consideration of ordinance to restrict smoking in public places (Councilmember Egger) from New Business and to continue Old Business and the rest of New Business to the December meeting.

15 Maple Avenue; request for a driveway width variance for parking being proposed in conjunction with the construction of a new single-family residence; Mr. and Mrs. Garriott, applicants; application #02-11; Assessor's Parcel No. 1-236-35; Residential RD 5.5-7 Zone; CEQA categorically exempt per §15303(a)

Planning Director Kirkey presented the staff report. He said that the Planning Commission had approved the project subject to various conditions, some requiring the approval of the Department of Public Works; that the property in question was approximately 50 feet wide with an average slope of 47.4% up from Maple Avenue; that §12.12.030 of the Town Code limited the width of residential driveway entrances or approaches leading from the street into any premises to 20 feet, measured over the sidewalk area; that the requested variance was for a 32 foot wide driveway; that the steep, narrow aspect of the site had resulted in designing the parking as close to the front of the site as possible with the guest parking in the expanded driveway apron, which would reduce the amount of excavation needed and related environmental impacts from the project.

Vice Mayor Egger said that the site was one of the steepest lots in town and that its development would require the removal of three large bay trees.

5-19-05 Planning Commission Meeting Minutes

M/S Madsen-Hoffmann motion to approve the applications subject to the findings and conditions in the staff report.

ROLL CALL

AYES: Madsen, Lacques, Hoffmann, Maggiore, Meigs, Chair Herbert

NOES: None

RECUSE: Shaiken

Chair Herbert said this is the decision of the Planning Commission and any interested party may file a written appeal at the Town Hall within 10 days. He said if there is no appeal the decision becomes final.

200 Toyon Road; Application # 05-16 Request for a Hill Area Residential Development Permit, Retaining Wall Height Variance, front setback Variance and Excavation Permit to extend Toyon Road approximately 310 ft., construct a fire truck turn around, a driveway and a new residence with retaining wall heights reaching up to 17ft. on a 10.79 acre parcel; Total Excavation and Fill for roadway extension, turn around, driveway and residence is estimated at 1,415 cubic yards; Residential single-family RS 6 Zone; Assessor's Parcel Number 003-161-01 and 003-171-01 though 08; Ben Ross, owner, David Faw, applicant; Categorically exempt, § 15303(a) and 15303(d).

Commissioner Meigs recused herself because of the proximity of the project site to her residence.

Senior Planner Neal read the staff report.

Chair Herbert asked staff about the increase in the amount excavation and number of trees that would be removed. He asked if those numbers were for the roadway extension.

Senior Planner Neal said there have been changes to the roadway because of the requirements of the Town Engineer, that some of the excavation increases may also be a result of the "storage area" underneath the house and possibly the fire truck turn around which was not included in the original submittal.

Commissioner Maggiore said she was still unclear about the public access.

Senior Planner Neal said it is a public roadway easement so the owner cannot gate the roadway.

David Faw, applicant, said the parcel is large, that when the Town Engineer first reviewed the plans he felt the retaining walls were too close to the County Open Space which increased the amount of grading and the number of trees that would need to be removed; that they would be planting 28 oak trees of several varieties on the site; that the house could be closer to the road but the area where the house is currently proposed is the only site on the property with a distant view. He said that the owner could grant the Town a road way easement to include the fire truck turn around as a public right-of-way for people in vehicles to turn around; that the area under the house must be enclosed to meet requirements of the Ross Valley Fire Department (RVFD); that the windows were added to improve the area and that the area can be removed form the proposal to reduce the Floor Area Ratio (FAR). He requested that the Commission continue the application to either give the owner more direction or to

request more information rather than deny the application. He also said that he spoke with the Open Space Acquisitions Manager with the County of Marin and he indicated that he would like to have some sort of open space dedication.

Commissioner Shaiken said the application stated the square footage for the project as 4,978 square feet and staff had determined that the house including the "storage area" is 7,000 square feet; that the storage area as proposed should be counted towards the FAR because the walls are finished, there are french doors etc. and that Mr. Faw had indicated that the area label as storage on the plans could be eliminated. He asked Mr. Faw for clarity.

Mr. Faw said the floors could be eliminated.

Commissioner Shaiken said that might not be sufficient because the area could easily be converted to living space in the future.

Commissioner Madsen asked the applicant why he couldn't use the area on the first floor as living space and reduce the square footage of the other floors.

Ben Ross, owner, wanted to leave the area under the house open but the Ross Valley Fire Department required them to enclose the area; that one family member has mold issues and that was why they wanted a concrete floor but that they are willing to eliminate the area under the house. He also said his father in law is in a wheel chair and that is why they would like the living area to be one level.

Commissioner Shaiken said the current application in front of the Commission has the area finished off as living space although the applicant has called it storage space; that the current applicant may not want to use the area as living space but future owners may see the area as a way to expand their living space and that the Commission could not approve the current application because the square footage is over the maximum allowable square footage.

Doug Matteson, project engineer, said they could leave the slope as is and the area unfinished to reduce the FAR.

Commissioner Maggiore asked the project engineer how long the roadway extension would be.

Mr. Matteson said about 150 feet.

Commissioner Hoffmann asked Mr. Matteson how long the combined roadway extension and driveway would be.

Mr. Matteson said it would be 345 feet.

Commissioner Maggiore asked if there would be retaining walls along the driveway.

Mr. Matteson said yes.

Commissioner Hoffmann asked the applicant if they would be using any green building technology.

David Faw said he was not the architect so he was not able to answer the question.

David Warner, 181 Toyon, said there was not a tree assessment plan in the submittal; that he felt the applicant would need to create a turn around for the public; that upper Toyon residence are concerned about the roadway extension; that the end of Toyon is not maintained by the Town; that the property owners in the area are responsible for the roadway maintenance; that he would like the Commission to require the applicant to secure a performance bond for the roadway in case there is any damage to the road; that he would like the roadway extension completed before the construction begins on the house; that he felt the applicant should create an area for hikers to park and that when the project is completed he felt the applicant should be required to do an overlay of the privately maintained section of Toyon Road.

Pam Meigs, 310 Cypress, said the proposal is for a massive monster mansion; that the project would result in an environmental slaughter; that the roadway extension would cause massive excavation; that the roadway extension may open the area up to subdivision, that the house is too large; that an open space agreement would be a win win situation; and that she felt the house should be moved closer to the existing road.

Commissioner Lacques asked the applicant how many truckloads of materials would need to be hauled off site.

Doug Matteson guessed it would be about 77, 10-wheeler truckloads.

Chair Herbert asked if the roadway extension work would be completed before construction begins on the house.

David Faw said yes. He also thought RVFD would require the fire hydrant and the water tank to be in place before construction begins on the house.

Chair Herbert asked Mr. Faw if there were other parcels off the roadway extension that could be developed.

Mr. Faw said no the area within the Town's limits are under one ownership which abutts Open Space District lands and the Town would have control over any further development of the privately owned portion.

Chair Herbert asked what the timeline was for the Open Space agreement.

Doug Matteson said the Marin County Open Space would give them comments by May 27th so the applicant would have that information for the Commission by the next meeting.

Chair Herbert said the Commission cannot approve the project as currently submitted. He asked the applicant if they would like a Planning Commission decision tonight or would they like to waive their rights under the Permit Streamlining Act and have the application continued.

David Faw requested continuance form the Planning Commission and said they would waive their rights under the Permit Streamlining Act.

Commissioner Madsen said if he was the property owner he would want to place the house in the same area because he would want the views as well, that he thought the house size should be reduced and he thought the neighbors may be asking too much of the applicant.

Commissioner Maggiore said that the biggest issue for her was the size of the house. She also said that she agreed with Commissioner Madsen regarding the neighbor's request. She felt it was not the applicants job to provide parking for hikers.

Commissioner Hoffmann said the proposal was excessively large; that the roadway and driveway were too long; that Fairfax is encouraging in law units and he thought the owner should consider making a separate unit for his farther-in-law; that if the house were reduced to the maximum allowable square footage of 5,000 square feet he would encourage the use of green building technology to mitigate the environmental impacts of such a large home and he would solidify the conservation easement before the next hearing of the item.

Commissioner Shaiken said any one of the staff's ten recommended findings for denial would be reason enough for him to deny the current proposal.

Commissioner Lacques agreed with the other Commissioners. He said he was concerned about the extent of excavation that is proposed, the number of trees that would need to be removed, the environmental impacts and the size of the house. He also encouraged the applicants to address the neighbors concerns.

Chair Herbert said if the applicant returns to the Commission with a 5,000 square foot house he would encourage the applicant to design the project to minimize excavation, minimize the environmental impacts, use as much green building technology as possible, solidify the conservation easement and try to address the concerns of the neighbors.

M/S Shaiken-Madsen motion to continue the application off calendar until the applicant presents a new set of plans for the Commissions review.

AYES: All

NOES: None

RECUSE: Meigs

119 Live Oak Avenue; Application # 05-15 Request for a Use Permit to construct a 878sf addition to an existing single-family residence on a 5,003sf parcel; Assessor's Parcel No. 001-236-04; Residential RD 5.5-7 Zone; Steve and Susan Scott, owners; Morgan Hall, applicant; CEQA categorically exempt § 15301(e).

Commissioner Lacques recused himself because of the proximity of the project site to his residence.

Senior Planner Neal read the staff report.

Commissioner Hoffmann asked the applicant if the project would use any green building technology.

Morgan Hall, architect, said that the applicants would be using recycled glass counter tops; that there are no construction documents yet but that he believes in using green building technology and that he would use green building technology if given the opportunity.

Linda Neal

From: Raives, James <JRaives@marincounty.org>
Sent: Tuesday, June 07, 2016 1:12 PM
To: Linda Neal
Cc: Martin, Mischon; Kuhn, Bill; Somers, Carl; Korten, Max
Subject: RE: 200 Toyon Road

Linda,

Sorry about the delay in getting back to you. This has been more complicated than I anticipated. It is true that in 2010 we sent a letter agreeing to allow construction of defensible space on Cascade Canyon Preserve, within an area 50 feet wide and 200 feet long. (Since the set of plans are reduced, I cannot get an accurate information on the size of the defensible space proposed by Mr. Ross.) Since that time, we have drafted a Vegetation and Biodiversity Management Plan and although our board has not yet adopted the plan (we are still drafting response to comments on the draft EIR), it identifies four different vegetation zones on our property consisting of Legacy, Sustainable Natural System, Natural Landscape, and Highly Disturbed Zone, with Legacy Zone being the most sensitive. Mr. Ross's proposed defensible space area on our property is mostly in Legacy Zone. Additionally, we had one of our staff ecologists assess the site and he identified a rare plant within the defensible space. The plant is Napa false indigo (*Amorpha californica var. napensis*) and is listed as California Rare Plant Rank 1B (formerly known as CNPS Lists), which are plants that are rare, threatened, or endangered in California and elsewhere.

Normally, we would not allow defensible space within a legacy zone, especially with special-status species. However, because of our previous letter, we will agree to allow vegetation clearance on our property provided that the landowner applies for a permit and is willing to work with us to protect the sensitive species and minimize impacts to the legacy zone.

I would propose a condition that states:

Before implementing the defensible space, the landowner will apply for and receive a permit from the Marin County Open Space District. Through this process, the landowner will modify the defensible space to avoid impacts to any special status plant species and minimize disruption of habitat within the open space preserve.

It has been a long time since I wrote a condition, so you might have to beef this up a bit.

MARIN COUNTY
PARKS
PRESERVATION • RECREATION



James Raives
SENIOR OPEN SPACE PLANNER

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ATTACHMENT E



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
PHONE (415) 453-1584 / FAX (415) 453-1618

MEMORANDUM

To: Linda Neal – Principal Planner

Date: August 8, 2017

From: Ray Wrysinski
Town Engineer

Page 1 of 6

Subject: Proposed Residence
200 Toyon Drive
Fairfax, CA

A.P. 003-161- 01, 003-171-01, 02, 03, 04, 05, 06, 07, 08

I have reviewed the information provided with your July 13, 2017 transmittal. The items reviewed included a 28 sheet set of plans that included drawings by DVC Group, Planning, Engineering, Cm, dated 7/6/17, drawings by J. L. Engineering Civil Engineers, dated 11/10/16, drawings by Jerry Frate & Associates Architecture and Planning, dated 11/10/16 and a topographic survey by L. A. Stevens & Associates, Inc. – Professional Land Surveyors, dated 2/22/05. There was a Geotechnical Evaluation by Geoengineering, Inc., dated July 3, 2017. There is an Urban Forestry Associates, Inc. report dated 6/23/17 and a DVC Drainage Report Dated 5/24/17.

The submitted items were reviewed to check for compliance with Code Section 17.072.080.

A topographic and boundary survey signed by a licensed surveyor or signed by a civil engineer licensed to do land surveying is required. We have a topographic survey with a portion of the site boundary on it and that survey, noted above, was produced in 2/22/2005 by L.A. Stevens & Associates, Inc. That survey does have the signature and seal of that surveyor. The Town Code requires that the survey must show all easements that are existing and proposed or if none exist, a notation of this must be made on the survey. The Munselle letter, previously received that is dated 12/8/16, provides a description of the easement information. I find that the information in that letter is sufficient to satisfy the Code requirement for easement information. The letter refers to a map and that map refers to a 9/1/16 Old Republic title report which we do not have. Copies of that title report must be submitted for use in project review. The previously submitted grant deed satisfies the requirement for that document.

The submitted topographic survey shows property lines with dimensions. This is a large property and the survey, we have, only shows some of the dimensions. From a previous submittal we have a recorded record of survey, by L. A. Stevens & Associates (County serial no. 2002-0005263) that shows property line dimensions for most of the exterior boundary of the property and shows the right of way with dimensions for Toyon Drive. There are many lots shown on the survey and the Assessor shows many Parcels as noted at the beginning of this memorandum. The Parcels were merged in a 6/26/84 Notice of Merger by the Town of Fairfax. We normally require a complete,

ATTACHMENT

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dimensioned boundary for projects like this however, due to the size of the property and amount of dimensions on the above recorded record of survey, I find that it is reasonable to work with the boundary information we have for this stage of project review. Prior to issuing a building permit and prior to completing any open space dedications, a recorded record of survey, that completes all the property line dimensions, must be provided.

The topographic survey must be provided in a form without new design information on it so that the existing conditions can be clearly seen and it must be provided at a scale that matches the project design site plans and grading and drainage plans. This matching scale size drawing must be provided so that the existing condition drawing can be overlaid on the design drawings to confirm how the design fits existing conditions. The submitted Stevens survey is at a scale of 1"=20'. Some of the plans are at a scale of 1"=10' so copies of the topographic survey with boundary must be submitted that are at a scale of 1"=10', covering all these areas. This has been done. The site plans and grading and drainage plans must be on a base of the site topographic survey (this has generally been done) but at times the design information obscures the existing condition information and contours and some trees in the developed area are not shown. This will allow grade changes and all tree removals to be seen. Overlaying the clean base topographic survey drawing on these design plans allows resolving how the new features fit existing without the need to get additional drawings where some of the existing condition information is not readable. It is important to note that the 2/22/05 Stevens survey is shown on sheet C1 of the DVC plans as the topography for the plans. That is a mistake. The plans appear to be based on an earlier version of a survey from Stevens so the 2/22/05 survey in this plan set does not provide base information.

The topographic survey normally must show existing and new sanitary sewer, water and storm drain lines with their sizes. We typically accept this utility information on other plan sheets such as the site plans, grading and drainage plans and improvement plans. Sanitary sewer, water and joint utility trench locations are shown on sheet C5 which takes care of those items. Storm drain lines are shown on sheets C2 through C4. This information or modifications of it will resolve that issue.

The topographic survey, we have, was done in 2005 so it is very old. We have a 7/9/2015, Geoengineering letter, that updates the 6/8/2001 Evaluation, indicating no significant topographic changes were found. In my site review, it appeared that some trees, I was sure were identified on the survey, were larger, now, however, I feel, that is not a big issue so I find that using most this existing topographic survey should work fine. My field review, 1/16/17 found a slide scarp below the road in the area of station 11+00. This feature is not noted in the Geotechnical information, previously received, and is not shown on the topographic survey. This scarp is about 30' wide and about 10' high. This slide area has been required to be shown on the topographic survey and it must be evaluated by the Geotechnical Engineer. This requirement has been discussed with the applicant's consultants and I had been told it would be added to the topographic survey. This has not been done with this latest submittal.

The Code requires a report by a registered civil engineer specializing in soils and foundation design. The report, noted above, provides most of the needed soils information. The soils evaluation notes that current plans include a modular home that will be positioned on a framed platform. This is old information but the Geotechnical Engineer has provided the 7/9/15 letter indicating review of the

latest plans so the geotechnical information provides most of what we need in that area.

The 7/3/17 Geoengineering letter provides the latest update of the soils engineering information. That letter discusses the slide scarp that has been identified along with some additional stability issues. The letter notes that there is no surveyed topography and identifies the recently found 12' escarpment, 150' downslope from the access road. The letter states that this appears to be an old feature and that future movement cannot be ruled out. Discussion is given that future earth movement on these slopes would more likely develop at locations other than this escarpment. It notes reasons that preclude reliable evaluations slide potentials and their volumes and states this would require careful and thorough planning.

Regarding landsliding from this site to structures below, specifically the house at 126 Cypress Drive, I had requested review of this danger from the Geotechnical Engineer. The 7/3/17 letter states this appears highly unlikely. I have seen landslides that have traveled farther than the distance to 126 Cypress so damage there is a concern for me.

The storm water drainage from the proposed project is shown to discharge on the steep slopes below the house and below the entry road. These discharges are shown to come out from dissipater devices at the downstream end of the storm drain pipes. The plans show these storm drains discharging on the steep hillsides in four locations. I find that this concentrated flow can be expected to create an erosion and landslide problem. Additionally this storm water flow can be expected to activate the weak soil area at the slide scarp (noted above) downhill. The discharge at the northerly end of the building will not feed water toward the identified slide scarp so it is of lower concern to me. The discharge below the southerly end of the building will flow into the natural drainage swale on the site and that swale appears to have naturally eroded to a fairly stable and erosion resistant configuration so I am not concerned about that discharge. The two discharges near the beginning of the entry road will discharge uphill of the existing slide scarp, noted above, and saturate that hillside. An additional feature of these two discharges is they are designed as perforated pipe water storage structures under the road as is the pipe southerly of the building under the road. These perforated pipes will feed water into the surrounding soil and bedrock. No discussion is provided for these perforated pipes but the purpose appears to be for recharging the underground aquifer. In this case the water can be expected to go into the impermeable bedrock (that probably will not work) or it can build up under the road in back of the retaining wall (probably causing pressure and stability problems) or saturating the soil layer over the bedrock (increasing instability there) or forcing openings to the surface below the walls and going downhill as seepage flow. I believe these discharges will cause problems. They may cause landslides but that is difficult to predict.

The two discharges near the beginning of the entry road could be routed into a pipe or concrete ditch, designed with sufficient tensile strength to minimize a break on the hillside, and carry the water to the natural drainage swale near the building. The project geotechnical engineer and civil engineer seem intent on placing these storm water discharges in a way that will saturate or pressurize these very steep hillsides. I can't recommend the design as shown with the available

information. I would like to see this project move forward so I suggest that the consultants provide information to Town staff, for use at Planning Commission review, that clearly indicates a design that will void the problems described above. There could be a condition placed by the Planning Commission that the storm drain discharges will be designed to resolve the above noted problems and this will include signed and sealed letters from these engineers that the proposed design does not create any unusual erosion or stability problems. These letters would need to be relatively free of reasoning like the discussion in the 6/8/01 geotechnical evaluation "risks that the owner is willing to assume" and from the 7/3/17 evaluation "---potential for downslope damage --- are nearly impossible to forecast". I am looking for a design, in this case, that has sufficient certainty to its stability so that the engineering consultants do not find it hard to put in writing that the design should perform well with few problems as long as it is reasonably maintained. The Town Code requires that I carefully consider stability problems. Looking for the risk that an owner may be willing to accept is often not a good measure of safety since few people have much experience with soil stability problems. Additionally, when a developed property sells, that next new owner is even less likely to understand risks that may be in place after consideration of construction economics.

The slide scarp that is below the entry road could propagate uphill to the road so drainage features that saturate the soil below the road must be considered carefully.

It is my understanding that concerns of the Water District related to the water pressure zone and concern about the topography elevation datum have been resolved.

The Grading and Drainage Plans and Utility Plan sheets C2 through C5 are required to show dimensioned property lines and that has been done. Any utility work in the existing part of Toyon Drive, including sanitary sewer trenching, water line trenching and joint utility trench trenching must be covered by an encroachment permit obtained from the Town Director of Public Works. On sheet C1 it now states that work in the public right of way must be covered by a permit from the Town Director of Public Works Department resolving that issue. Maintenance responsibility for all the utility facilities will have to be clarified in the project approval.

This project shows a large number of trees to be removed. The Urban Forestry report shows 51 trees to be removed. Some of those trees are on adjoining property so that can't be allowed unless it is worked out with the property owners. That report is called a Phase I and it covers the road. Phase II is needed for the house and driveway. I think the house and driveway areas will require removing more than 70 trees but this needs to be clarified. A Fairfax Tree Committee report and permit must be obtained to cover all tree removals.

It is my understanding that the proposed 16' width of the entry road satisfies the Town and Fire Department requirements. You noted the Town Attorney's concern that 16', in the right of way, may not be allowed by the Code. This should be resolved.

Maintenance and repair responsibilities for all the existing streets leading to this site, that will be damaged by trenching or damaged by construction traffic, must be clarified in the project approval.

The vehicle barrier to be placed on the downhill side of the street extension, where there is a drop-off, shall satisfy State Highway Design Manual strength requirements and that is shown on the Typical Section.

The construction of the entry pavement will be close to the property line on the uphill side at private property and at public open space land. It appears that normal construction excavation for the pavement, retaining walls, wall backfill placement and uphill drainage ditches will cause the work to extend into those other properties. The safety requirements for grading, deeper than 5', in back of the retaining walls, noted in the Geotechnical Report, along with the width of the ditch above the retaining walls will put the work onto the adjoining properties. There is no apparent provision in the design to avoid this problem. If the work trespasses into these other properties, the Town Building inspector will need to stop the work. To avoid this problem, a condition to provide solution to this problem for the construction plans should be placed. There are steep unstable banks above the uphill side of the road retaining wall so it may be necessary to extend the wall height, to provide a catchment area, as described in the geotechnical report, to keep sloughage off of the road. This is noted to be an item of review of the final plans.

The pavement Driveway Profile on sheet C3 shows a vertical curve at a high point where there had been a grade break of 15%. This resolves that problem.

The project grading is shown to be a cut quantity of 1,615 yards, and a fill quantity of 856 cubic yards for a total of 2,471 cubic yards. The material movement for the work within the public street right of way and for within the private property must be shown. The public right of way grading is shown as 764 cubic yards of cut and 182 cubic yards of fill. This leaves the private property area with 851 cubic yards of cut and 674 cubic yards of fill. This quantity of material movement requires Planning Commission approval under Code Section 12.20.080. There will be quantities of concrete and gravel backfill material, that will probably exceed several hundred yards, for the extensive retaining wall work, that will be moved into the site over existing roads.

Extensive retaining walls up to 17 feet exposed height are shown to be constructed. There was a requirement to show wall heights at 10' intervals. There was some discussion that this was possibly too much detail. It should be kept in mind that the Code requires the walls to be shown in plan and profile. Showing the profiles makes it much easier for the Planning Commission to find the wall heights at all locations. Not requiring the profile information greatly reduces the amount of useful information so trying to get by without that data is a judgment call. A lot of wall heights are shown.

The proposed road and driveway grading and retaining wall work is a large project. It should be covered by a hold harmless agreement called for in Code Section 12.20.030. A security should be obtained, as has been done on previous large grading and wall projects that guarantees the completion of the work. This security should also guarantee the restoration of the pavement in existing Toyon Drive that will be cut by the new utility trench work including sewer, water and joint utility trench. The repair of existing streets from damage of this projects construction activity must also be guaranteed by this security. The functioning and maintenance of the driveway and drainage improvements should be the responsibility of the site owner and the Town should obtain a

hold harmless agreement which places that responsibility with that owner. The problem of maintaining the portion of the downhill streets, not maintained by the Town, including Toyon, should be studied by the Town and solutions should be discussed with all the property owners involved. This street will be greatly affected by all the utility trenching and construction traffic.

If there is to be an open space dedication that item should be put in a condition of approval.

The carport at the southerly side of the house appears to be sited over an extended foundation which resolves the previous need for clarification of the work there.

Sheet C7 provides the required erosion control plan.

A plan was needed that showed the entire property and this is provided by sheet A1.

The Geotechnical Evaluation called for debris barrier protection on the uphill side of the house. A small barrier is shown resolving that question. The retaining wall and uphill drainage along the front of the house will encroach in the street right of way in places. Where those items are in the right of way they must be covered by an encroachment permit.

I recommend that the processing of this application proceed.

Ray Wrysincki
Ray Wrysincki, P.E.
Town Engineer



MarinMap Site Parcel Report

Property ID: 002-052-14

Parcel Information

Report generated 10/24/2017 7:40:29 AM

Property ID: 002-052-14
Address: 10 FAWN RIDGE FAIRFAX
Land Use: Single-Resid. - Improved
Units: 1
Tax Rate Area: 003-000
Average Slope: 55.10



Parcel highlighted in blue

Census: 114100
District: 2 Katie Rice
Wildland Interface: Y
Community Plan: Upper Ross Valley
Community:
ClubList:
Traffic Zone: 145
Zoning: RS-6
RS-6 Single Family Residential

Local Coastal Plan:
Dam Failure Area:
Alquist Priolo Zone:
Stream Conserv. Area/Buffer: N 0
CWP Area: Upper Ross Valley
CWP Corridor: CITY-CENTERED
Fire Service: Ross Valley Fire Service

Flood Zone: X **Insurance Required:** N

Zones B, C, and X are the flood insurance rate zones that correspond to areas outside the 1-percent annual chance floodplain, areas of 1-percent annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1-percent annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 1-percent annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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The information on this screen is for Tax Roll Year 2017: July 01, 2017 to June 30, 2018

Parcel and Deed Information for Tax Roll Year: 2017

Parcel Number	Deed Reference Id	As of Date
002-052-14	07-012132	01/01/2017

[View Assessor Map \(opens a new window\)](#)

Ownership Information

Owner Name

READ ERIC J /TR/ &
 READ DEBORAH S /TR/

Total Assessed Value for Tax Roll Year: 2017

Land	1,209,000
Improvements	441,000
Total Assessed Value	1,650,000

Exemptions

Home Owner	7,000
Total Exemptions	7,000

Net Assessed Value for Tax Roll Year: 2017

Total Assessed Value	1,650,000
Less Total Exemptions	(7,000)
Net Assessed Value	1,643,000

NOTE: The owner and deed information above represents the assessor's current information. The values above represent the preliminary or original bill values for the property. The tax values below represent the original secured bill or subsequent revisions to that bill. Data is updated monthly.

Property Characteristics

Land Sq. Ft.	91476
Use Code	11
Use Code Definition	Single-Resid. - Improved
Living Units	1
Construction Year	1937
Living Area Sq. Ft.	2846
Number of Bedrooms	3
Number of Bathrooms	2
Unfinished Sq. Ft.	0
Garage Sq. Ft.	270
Deck/Patio Sq. Ft.	271
Pool Sq. Ft.	0

Location Information

Tax Rate Area	003000
Assessment City	FAIRFAX

Property Tax Information for Tax Roll Year: 2017

Bill To	READ ERIC J /TR/ & READ DEBORAH S /TR/
Bill Number	17-1133222

Property Tax information is provided by the County of Marin Department of Finance: (415) 473-6133.

Property Tax Breakdown By Fund

Fund Id	Tax Rate	Fund Title	Contact Information	Amount
	1.0000	BASIC TAX		16430.00
101160		COUNTY FREE LIBRARY MEAS A	LIBRARY ADMIN (415) 473-3220	51.96
102595		FCZ#9 FLOOD & WATERSHED PROGRAM	FELIX MENEAU (415) 473-3223	202.60
105110		MS MOSQUITO #1	MARIA GARCIA-ADARVE (800) 273-5167	18.00
107761		TAM UNION HIGH SCHOOL DIST	ERIN PARLING (415) 945-3709	285.10
107892		ROSS VALLEY SCHOOL DISTRICT	PAM COONEY (415) 451-4070	558.02
108945	0.0019	MARIN COM COLLEGE2004-2 C-11/04	DEPT OF FINANCE TAX DIVISION (415) 473-6168	31.20
108948	0.0094	TAM UHSD-2010 REFUNDING BONDS	DEPT OF FINANCE TAX DIVISION (415) 473-6168	154.44
108949	0.0031	MARIN COM COLLEGE2004-3 C-11/04	DEPT OF FINANCE TAX DIVISION (415) 473-6168	50.92
108952	0.0077	ROSS VALLEY SCH 2010 A-11/10	DEPT OF FINANCE TAX DIVISION (415) 473-6168	126.50

108953	0.0128	ROSS VALLEY SCH-2011 REFUNDING	DEPT OF FINANCE TAX DIVISION (415) 473-6168	210.30
108964	0.0071	TAMALPAIS UHSD GO BOND REFUND 2011	DEPT OF FINANCE TAX DIVISION (415) 473-6168	116.64
108965	0.0133	ROSS VALLEY SCH 2010-B A-11/10	DEPT OF FINANCE TAX DIVISION (415) 473-6168	218.50
108967	0.0064	MARIN COM COLLEGE2004-4 C-11/04	PROPERTY TAX DIVISION (415) 473-6168	105.14
108977	0.0104	TAMALPAIS UHSD 2014 REFUNDING	DEPT OF FINANCE TAX DIVISION (415) 473-6168	170.86
108978	0.0018	MARIN COMMUNITY COLLEGE 2015 REFUNDING	PROPERTY TAX DIVISION (415) 473-6168	29.56
108981	0.0084	ROSS VALLEY GO BOND SERIES C-11/10	DEPARTMENT OF FINANCE TAX DIV. (415) 473-6168	138.00
108982	0.0032	MARIN COMMUNITYCOLLEGE2016REFUNDING	DEPARTMENT OF FINANCE TAX DIV. (415) 473-6168	52.56
108985	0.0077	MARIN COM COLLEGE2017-A B-6/2016	DEPT OF FINANCE TAX DIVISION (415) 473-6168	126.50
108989	0.0097	MARIN COM COLLEGE2017-A1 B-6/2016	DEPT OF FINANCE TAX DIVISION (415) 473-6168	159.36
109072	0.0910	TOWN OF FAIRFAX PENSION TX	MICHAEL VIVRETTE (415) 458-2350	1495.12
109075		ROSS VALLEY PARAMEDIC-FAIRFAX	JASON WEBER (415) 473-4100	69.50
109108		FFX/W MARIN LIBRARY	LIBRARY ADMIN (415) 473-3220	36.00
109156		TOWN OF FAIRFAX-RUNOFF CHARGE	MICHAEL VIVRETTE (415) 458-2350	15.00
109192		MMWD-FIREFLOW	CHARLES DUGGAN JR. (415) 945-1401	75.00
109212	0.0146	ROSS VALLEY SCH BNDS E-03/1999	DEPT OF FINANCE TAX DIVISION (415) 473-6168	239.86
109241		FAIRFAX-SPECIAL PURPOSE	MICHAEL VIVRETTE (415) 458-2350	195.00
109271	0.0289	TOWN OF FAIRFAX GO BOND REFUND 2012	MICHAEL VIVRETTE (415) 458-2350	474.82
109282	0.0101	MARIN HEALTHCARE-2015 F-11/13	DEPT OF FINANCE TAX DIVISION (415) 473-6168	165.94
109283		MARIN EMERGENCY RADIO AUTH	NBS (888) 259-6324	29.00
109290		SAN FRANCISCO BAY RESTORATION AUTH	NBS (888) 508-8157	12.00
109292	0.0100	MARIN HEALTHCARE-2017 F-11/13	PROPERTY TAX DIVISION (415) 473-6168	164.30
Total Bill Charges:				22207.70

The above information has been extracted from the Assessor's Equalized Tax Roll and reflects the most recent tax bill.

See California Revenue and Taxation Code §408.3: Property Characteristics Information; Public Records.

Disclaimer

The Legislature finds and declares that information concerning property characteristics is maintained solely for assessment purposes and is not continuously updated by the assessor. Therefore, neither the county nor the assessor shall incur any liability for errors, omissions, or

Linda Neal

From: Kylee Otto [REDACTED]
Sent: Friday, May 27, 2016 12:28 PM
To: Linda Neal
Cc: Katy Wisinski
Subject: 300 foot private driveway within a public roadway easement
Attachments: doc03207220160527080833-c1.pdf

Hi Linda

Per our conversation this morning I would recommend that the Town only allow construction in the public right of way that complies with the street standards. This is the least risk of liability for the Town.

We discussed that the 'driveway' within the public right of way was only going to be 16 feet wide rather than the 20 feet wide required for streets. Also this right of way is currently used by others to access the adjacent open space. You also mentioned that there is a steep drop off as part of this 'driveway' which would create an 'unsafe condition.'

Because the Town wants to have the ability to use this right of way as future developments occur, vacation is not presently an option. As such, the Town could be liable for damages that arise due to the 'unsafe condition' of the 'driveway'. Especially since this 'driveway' is going to be within the public right of way and connect to an existing street (Toyon). Members of the public will not know they are not on a Town Street.

Rather than requiring the street to be constructed to the house (currently over lot 69 and 70 - although you noted all of these lots have been merged into one parcel.) The Town could require the street to be constructed to somewhere along his parcel (near lot 65 for example) and then he could take his driveway all interior to his parcel. Under that scenario, there is no risk of liability to the Town as the street would be constructed to Town standards.

You indicated that there is a cliff at that location and would be costly to the owner. However, as we discussed, it does provide an option to the property owner, and then the street constructed according to the standards for the entire length could then be less troublesome/costly option for the property owner.

You also mentioned that the owner has indicated that he would like to subdivide the property in the future. If that is the case, developing the street now to standards:



1. sets the precedence of the standard of construction for future owners.
2. eliminates the future issue of new property owners trying to take 'street access' from a driveway that is acting as a 'substandard street'
3. reduces the length of street the town would construct should there ever be the desire to construct the street. As the driveway - the City would need to remove the driveway and replace with a street within the standards.

Should the Town not desire to develop the street to standards there will be the risk of liability to the Town since members of the public currently use this right of way for access to the Open Space.

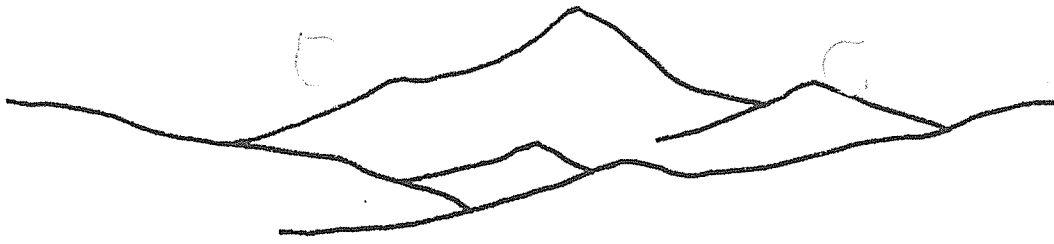
I am happy to assist further with this or answer any questions that arise.
Kylee



Kylee Otto
Of Counsel

[REDACTED]
[REDACTED]
www.BBKlaw.com  

ATTACHMENT I



FAIRFAX OPEN SPACE COMMITTEE

Fairfax Open Space Members:

- | | |
|-----------------------------|---|
| Jack Judkins-- Acting Chair | Chris Powers |
| Michael Ardito | Nancy Rogers |
| Ray Burgarella | Michael Simler |
| Ruth Horn | Hannah Salaverri (<i>ex officio member</i>) |

April 27, 2016

BY EMAIL

Town of Fairfax
Planning Department
142 Bolinas Road
Fairfax, CA

Attn: Linda Neal, Principal Planner
lneal@townoffairfax.org

Dear Ms. Neal

Thank you for the opportunity to comment on the submission by the landowner of an application for development of the property at 200 Toyon Drive, Fairfax (the property). The Fairfax Open Space Committee (FOSC) had the opportunity to review the application and associated plans at its regular meeting last night. In addition to members of FOSC, several neighbors of the property were present and were given the opportunity to provide input. I have been provided with the authority to relate to you the comments of FOSC, which, as you know, is charged with providing input to the Town on issues relating to protection and preservation of open space and natural and scenic resources within the Town.

Given the short timeline, here are our brief comments. As this application moves forward, of course, FOSC reserves the right to submit additional commentary.

- As you may recall, a number of years ago the Town Council approved a resolution identifying the property as a priority for preservation as open space on the advice and at the request of FOSC. In addition, the recently updated General Plan, open space element, identified the property in its Inventory as a priority open space area. Finally, under the ABAG/MTC One Bay Area process, the property has been identified as within an ABAG-approved "Priority Conservation Area", recognizing its scenic and natural attributes. For many of the reasons expressed below, the plan submitted does not adequately address protection and preservation of these values.
- According to information provided to FOSC and known personally by FOSC members, the property contains several trails that have been used for many, many decades for public access to other trails adjoining the property and to the adjacent Marin County Open Space District lands. The plans do not identify these publicly used trails nor identify any proposed action with respect to them, other than simply showing development over them. To some degree, it appears that this is true even of portions

of public trails within the existing Toyon Road right of way and on land that is not within the property boundaries.

- The plans fail to adequately identify the nature and size of the trees that will need to be removed to support the proposed development. Moreover (and this is a general commentary as well as one specific to the trees), it appears that plans developed in 2007 were simply resubmitted, without updating pertinent information as to the site characteristics and, in particular, the nature, size and extent of vegetation currently on it.
- The proposed development suggests that a “private driveway” will be built along the existing Toyon Road right-of-way, although that location, in part, appears outside of the property boundaries. Moreover, the private driveway extends some 400 feet into the center of the property, requiring massive retaining walls that will affect the natural resources on the property and those using the property.
- The development proposed does little to preserve the open space values of the property. It is placed in the center of the property, rather than at the end of the existing paved roadway. It is also massive in scale (5000 ft.² or so of developed areas, plus the length the roadway and other associated structures), dominates the landscape and impacts views from and access to the adjacent open space areas.
- There is no information provided as to existing wildlife or vegetation that may be threatened or protected and that may be located in or near the property. For example, we believe that the property is near or within an area identified as northern spotted owl habitat and that there has been recent discovery of endangered plants on the property (false indigo, maybe, but this will require research).
- The scale of the development is well outside the characteristics of the adjoining neighborhood both in size and in visibility from other areas of the town and from open space areas. Nothing has been done in the plans to address its impact on visual resources or the character of the neighborhood.
- The plans seem to indicate some areas of the property may be preserved as open space, but this is neither clear nor specific.
- It was reported that the property was used, historically, as an area for hunting and that there are vestiges of historical artifacts on the property that are not identified in the plans nor addressed.
- The property is steeply sloped and there appear to be areas of instability on the property. These are not identified or addressed by the plans.

Again, we appreciate the opportunity to provide this early commentary on the plans submitted. Please feel free to contact me if you need any additional information.

Sincerely Yours,

Jack Judkins
Acting Chair
Fairfax Open Space Committee

Cc: James M. Moore, Director of Planning & Building Services, jmoore@townoffairfax.org
FOSC Members
Community Members (as requested)