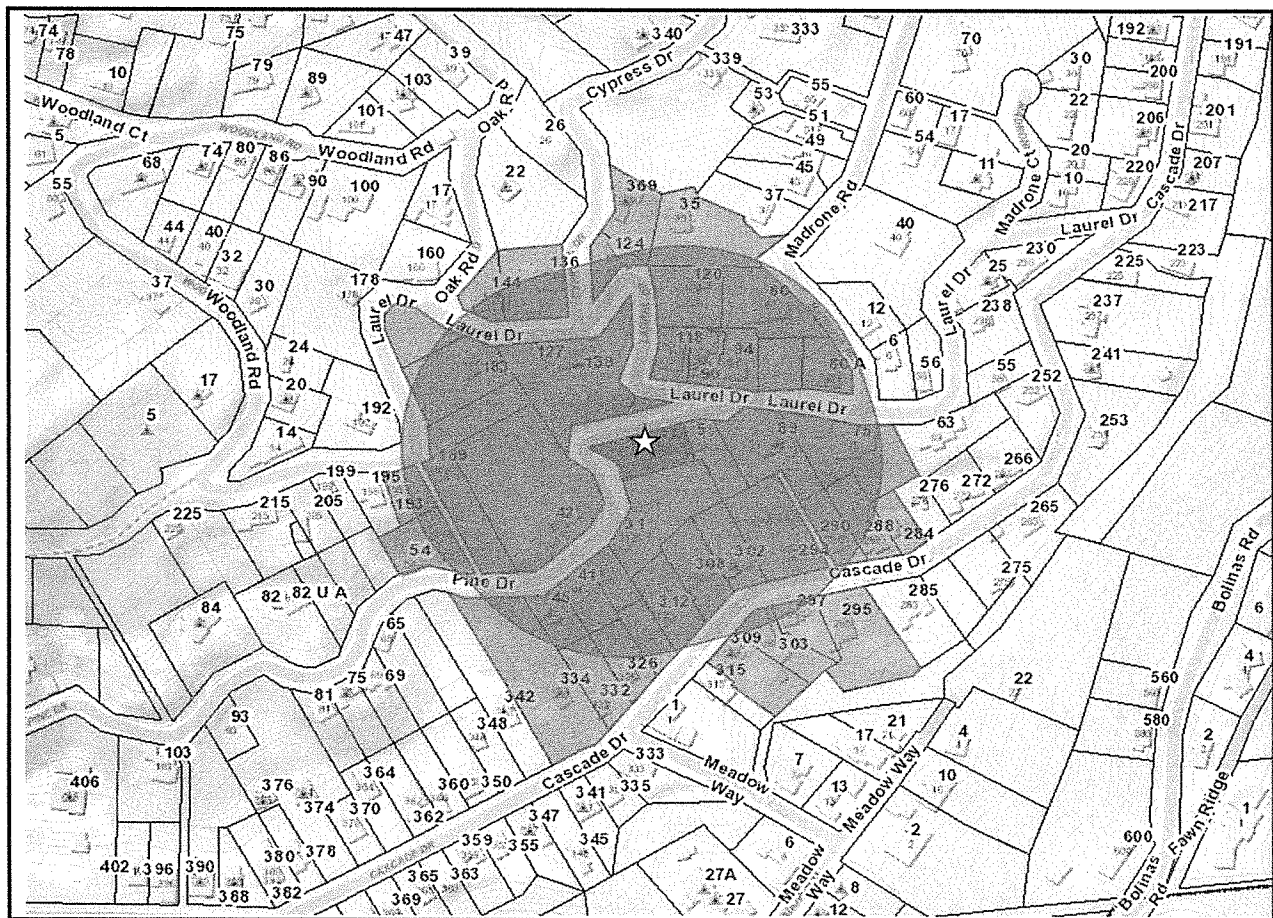


TO:	Fairfax Planning Commission
DATE:	August 21, 2014
FROM:	Jim Moore, Director of Planning and Building Services Linda Neal, Principal Planner
LOCATION:	11 Pine Drive; Assessor's Parcel No. 003-121-27
ZONING:	Residential Single-family RS 6 Zone
PROJECT:	Car deck/storage, residence remodel/expansion, fire truck turn-out
ACTION:	Use Permit, Variance and Encroachment Permit; Application # 15-12
APPLICANT:	Steward Summers, Architect
OWNER:	Michael and Renee Sylvia
CEQA STATUS:	Categorically exempt, §15301(e)(1)



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BACKGROUND

The 8,577 square foot site slopes down from Pine Drive at an average rate of 39%. The residence was constructed in 1940 and a parking deck was constructed in 1962. The front property line is located 11 feet from the edge of the paved road at the house and 18 feet from the edge where the parking deck used to be. There is no record of when the carport structure was demolished but the piers from that structure remain on the site.

DISCUSSION

The proposed project encompasses construction of a 468 square foot addition to the 952 square foot, 2 bedroom, 1 bath, single story residence. The remodel/expansion includes adding an internal stairway to a new lower living level that will include a master bedroom and bathroom. One of the upstairs bedrooms will be remodeled into a laundry room so the structure will remain a 2 bedroom house. Additionally, a 2 car parking deck will be restored on the site of the previously existing parking deck to the west of the residence. The project will increase the 952 square foot structure to a 1,420 square foot, 2 bedroom, 2 bath residence.

The project complies with the regulations set forth in the Residential Single-family RS 6 Zone District where it is located as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft, 10 ft for accessory structures	12 ft	35 ft	5 ft & 5 ft	20 ft	.40	.35	28.5 ft, 3 stories
Existing	5 ft	27 ft	32 ft (house)	18 ft & 71 ft	89 ft	.11	.17	23 ft 1 story
Proposed	5 ft	20 ft	25 ft	18 ft & 40 ft	58 ft	.18	.32	23 ft, 2 stories

The project does not constitute a 50% remodel so it is not subject to the Hill Area Residential Development permit process or the Design Review process [Town Code §§ 17.072.050(A) and 17.020.030(A)].

The project does require the approval of the following discretionary permits by the Planning Commission:

A Use Permit – Town Code § 17.080.050 requires that a Use Permit be obtained from the Planning Commission prior to any physical improvement of or on a building site

failing to meet the minimum lot size requirements. The site has a 39% slope and per Town Code § 17.080.050(C) it would have to be 31,000 square feet in size to comply with the minimum size requirements. The site is only 8,577 square feet in size so the project requires a Use Permit.

The purpose of the Use Permit process is to allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or in a zone or only if the uses are designed or laid out on the site in a particular manner [Town Code § 17.032.010(A)]. In reviewing a project the Commission shall consider the nature and condition of adjacent properties and structures and the pertinent aspects of the public health safety and general welfare.

To determine whether the site is suitable for the proposed development staff will review the site parking, size of other homes in the neighborhood on similar sized and sloped properties and proximity of the new living space to property lines and neighboring residences and outdoor living spaces.

The proposed carport will only require the approval of an encroachment permit for the portions of the parking structure that will have to be located in the public right-of-way due to the steep slope of the site and the distance of the front property line, 16 to 18 feet away, from the edge of the paved road. Town Code § 17.052.070(C) and (D) exempt parking on the site from having to be covered and from having to comply with the front setback regulations. Due to the steep slope of the site the parking structure will reach 16 feet in height (not including required safety railings) which exceeds the permit 15 foot height for accessory structures by 1 foot. However, acknowledging how difficult it is to construct parking on steeply down sloping properties, Town Code § 17.052.070(C) also exempts parking on downslope lots from having to comply with the 15 foot maximum height limit for accessory structures (Town Code 15.080.060(B)). The deck will providing parking for 2 vehicles in compliance with the parking regulations set forth in Town Code § 17.052.030(A). A third, guest parking space is not required because the project does not constitute a 50% remodel and the number of bedrooms is not being increased [Town Code § 17.016.040(B)]. Restoring the parking structure will be a benefit to this neighborhood where parking is scarce. Town Code § 12.32.020 allows the Commission to grant an encroachment permit for private structures to be located in the public right-of-way when: there is no suitable location for the improvement on the private property, and the public right-of-way is not being used by the general public. This is the case with 11 Pine Drive.

Other homes in the neighborhood on similar sized and sloped parcels vary in size from a 1,021 square foot, 2 bedroom, 1 ½ bath residence on a 6,000 square foot site (5 Pine Drive) to a 2,040 square foot, 3 bedroom, 3 bath residence on a 6,750 square foot site. Therefore, the proposed 1,420 square foot, 2 bedroom, 2 bath residence will not be out of scale or character with the neighborhood.

Enlarging a home by developing underneath the existing structure footprint is a typical way residences have been expanded throughout the hillsides of Fairfax. Therefore, the

architecture is similar to that of other homes throughout the area.

Combined Front/Rear Setback Variance –

In 1973 the Town adopted a new Zoning Code which established new minimum parcel sizes with respect to slope and significantly increased setbacks for all residential properties. The new Zoning Code also added the combined setback requirements which previously did not exist. The new Code resulted in a large percentage of the Town's residential parcels becoming non-conforming with respect to parcel size and the setbacks maintained by their residential structures.

Town Code § 17.080.070(B)(1) requires that structures on sloped properties maintain a combined front/rear setback of 35 feet. The existing house maintains a legal non-conforming combined front/rear setback of 32 feet. The proposed addition will decrease the combined front/rear setback to 20 feet. Therefore, the project requires the approval of a Combined Front/rear Setback Variance.

This parcel is very steeply sloped, irregular in shape and only 64 feet deep (most smaller parcels in this area are more rectangular in shape, are oriented with their more lengthy side property lines perpendicular to the street and are over 100 feet deep. The shallow depth of the parcel makes it difficult to expand the house without encroaching into the rear setback or without expanding into the only level and usable outdoor living space to the west of the house. The proposed living space will not extend beyond the footprint of the existing house/deck and the new upper floor deck will maintain a rear setback of 20 feet, which exceeds the minimum required 12 foot rear setback. The neighboring residences are 119 feet (31 Pine) and 26 feet (5 Pine) away from the proposed addition which meets the intent of the required setback regulations. Impacts on the neighboring properties will be minimal.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. California Fire Code § 503 requires that the fire department access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior or the building. This site does not meet this requirement at the present time. The project includes the construction of a 4 foot tall 40 foot long retaining wall within the public right-of-way across Pine Drive from the site and the widening of the road to meet the fire code.
2. A fire suppression system that complies with the National Fire Protection Association (NFPA) 13-D requirement and local standards. A separate deferred permit is required for the system which can be obtained from the Ross Valley Fire Department. The system must be designed by an individual or firm licensed to design and/or design/build such systems.

3. Interconnected smoke detectors provided with AC power shall be installed for simultaneous alarm. Detectors shall be located in each sleeping room, outside sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
4. Carbon monoxide alarms shall be provided outside each sleeping area in the vicinity of the bedrooms and on every level of the residence.
5. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required and must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.
6. The applicants must obtain an approved Vegetative Management Plan (VMP) prior to the project final inspection.

Marin Municipal Water District

1. Nothing about the proposed project will affect the District's ability to provide service to the property.
2. Compliance with all indoor and outdoor requirements of District Code Title 13, Water Conservation, is a condition of water service. Indoor fixtures must meet specific water efficiency requirements, landscape plans shall be submitted and reviewed to confirm compliance.
3. Should backflow protection be required it shall be installed, inspected and approved by a District Inspector.
4. Evidence of compliance with the District's requirements shall be provided to the Town prior to the final building permit inspection.

Sanitary District

1. A sewer connection permit is required.
2. Evidence of compliance with the Sanitary District's permit conditions shall be provided to the Town prior to the final building permit inspection.

Police, Public Works and Building Departments

The Fairfax Police, Public Works and Building Departments had no comments on or conditions to place on the project.

RECOMMENDATION

Approve application # 15-12 by adopting attached Resolution # 15-16 setting forth findings and conditions of approval.

ATTACHMENTS

Attachment A – Resolution No. 15-16

RESOLUTION NO. 15-16

A Resolution of the Fairfax Planning Commission Approving a Use Permit, Encroachment Permit and Variance for a Remodel/Addition and Construction of a Parking Deck 11 Pine Drive

WHEREAS, the Town of Fairfax has received an application for a remodel/addition to a residential structure increasing it from a from a 945 square foot single-family residence to a 1,420 square single-family residence; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on May 21, 2015 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission determined that the proposed residence as designed meets the intent of the Zoning Regulations and made findings for the requested Use Permit, Combined Front/rear setback Variance and the Encroachment Permit; and

WHEREAS, based on the plans and other documentary evidence in the record, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project; and

WHEREAS, the Commission has made the following findings:

1. The new living space will be constructed within the existing footprint of the house/deck below the first living level and it will not project towards the neighboring homes further than the existing structure. This type of improvement has been made to other single family residences in the Cascade Subdivision where Pine Drive is located on sites with similar topography where the site slopes down from the road and the main floor of the house is built at street level. Therefore, the approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment because the addition will be done within the existing footprint of the house
2. The addition maintains setbacks that exceed the minimum required side and rear setbacks and will maintain a 119 foot setback from the house at 31 Pine Drive and a 25 foot setback from the house at 5 Pine Drive and meets the intent of the setback regulations. There are no windows proposed on the east and west sides of the lower floor addition. Therefore, the development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

3. The 468 square foot addition will not result in a residence that is out of scale with the project site or with other homes in the neighborhood and will not change the single-family character of the neighborhood. Therefore, approval of the use permit is not contrary to those objectives, goals or standards set forth in the Residential Single-family RS 6 Zone District.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The site is small, 8,537 square feet, only 64 feet in depth and has a steep 39% slope. These are the special circumstances applicable to the property that result in the strict application of the setback regulations depriving the applicants of the ability to do a modest addition and restore their parking structure, which are privileges enjoyed by other property owners in the vicinity and under identical zone classification.
6. The variance will not constitute a grant of special privilege because other properties in the Cascades Subdivision Subdivision that have similar down sloping lots have improved the enclosed but unimproved under floor areas of their home. The proposed project is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.
7. The strict application of the 35 foot Combined Front/rear Setback regulation title would result in excessive or unreasonable hardship.
8. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
9. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area.
10. The portion of the Pine Drive right-of-way the encroachment permit is being granted for is not being used by the general public at this time and its use for a residential parking deck is a benefit to the neighborhood by getting the residence vehicles off the street.

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

4. This approval is limited to the development illustrated on the architectural plans prepared by Stewart Summers, Architect, revision date 3/18/15 pages A0 through A3, EC1 and EC2, the survey by R.W. Davis and Associates, Inc. Land Surveyors, page V-

1 and the engineering plans drawn by Glenn Dearth, LTD Engineering Inc. dated 3/17/15, pages C-1 through C-5.

5. Prior to issuance of any of the residence building permits the applicant or his assigns shall:

a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:

- Construction delivery routes approved by the Department of Public Works.
- Construction schedule (deliveries, worker hours, etc.)
- Notification to area residents
- Emergency access routes
- Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking

b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).

c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.

d. The foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Plan Checker.

e. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project engineer.

f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the development conformance with their recommendations. The residence shall be provided with sprinkler system that complies with the requirements of the Ross Valley Fire Authority.

g. Submit the record of survey with the building permit plans.

7. During the construction process the following shall be required:

a. The geotechnical engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town Staff that the grading has been completed as recommended prior to installation of foundation and/or retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the geotechnical and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans. The Building Official shall field check the concrete forms prior to the pour.

c. All construction related vehicles including equipment delivery, supply delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.

d. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

8. Prior to issuance of an occupancy permit the following shall be completed:

a. The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.

b. The Planning Department shall field check the completed project to verify that all planning commission conditions have been complied with prior to issuance of the certificate of occupancy.

9. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

10. a) The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

b) Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.

11. During construction the developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."

12. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 15-12. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 15-12 will result in the job being immediately stopped and red tagged.

13. Any damages to Pine Drive or public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

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

15. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.

16. Prior to issuance of the building permit the applicant shall sign, notarize and record a revocable encroachment permit document for the portions of the parking deck located within the Pine Drive right-of-way.

17. The applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department as follows unless a specific agency waives their conditions in a written letter to the Department of Planning and Building Services:

Ross Valley Fire Department

1. A fire suppression system that complies with the National Fire Protection Association (NFPA) 13-D requirement and local standards. A separate deferred permit is required for the system which can be obtained from the Ross Valley Fire Department. The system must be designed by an individual or firm licensed to design and/or design/build such systems.
2. Interconnected smoke detectors provided with AC power shall be installed for simultaneous alarm. Detectors shall be located in each sleeping room, outside sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon monoxide alarms shall be provided outside each sleeping area in the vicinity of the bedrooms and on every level of the residence.
4. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required and must be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night.
5. Prior to the project final inspection applicants must submit, and have approved, a required Vegetative Management Plan (VMP).

Marin Municipal Water District

1. Nothing about the proposed project will affect the District's ability to provide service to the property.
2. Compliance with all indoor and outdoor requirements of District Code Title 13, Water Conservation, is a condition of water service. Indoor fixtures must meet specific water efficiency requirements, landscape plans shall be submitted and reviewed to confirm compliance.
3. Should backflow protection be required it shall be installed, inspected and approved by a District Inspector.
4. Evidence of compliance with the District's requirements shall be provided to the Town prior to the final building permit inspection.

Sanitary District

1. A sewer connection permit is required.

2. Evidence of compliance with the Sanitary District's permit conditions shall be provided to the Town prior to the final building permit inspection.

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

The approval of the Use Permit, Combined Side Setback Variance and Encroachment Permit for the proposed residence is in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the residence can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21st day of May, 2015, by the following vote:

AYES:

NOES:

Chair, Philip Green

Attest:

Jim Moore, Director of Planning and Building Services