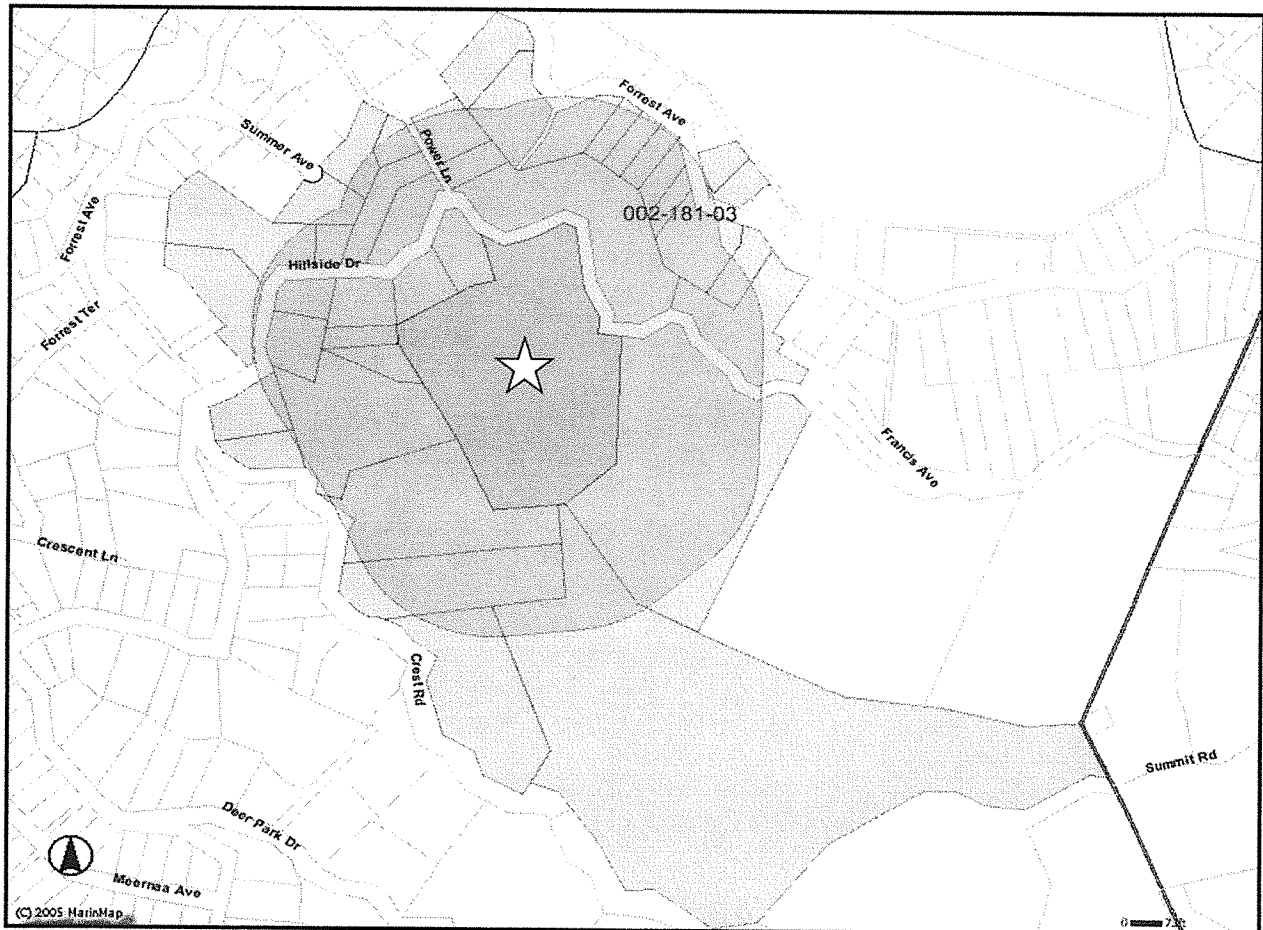


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 16, 2015
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 232 Hillside Drive; Assessor's Parcel No. 002-181-03
PROJECT: Enclose a storage area converting it to a garage storage addition
ACTION: Modification of a Hill Area Residential Development permit;
Application # 14-19
APPLICANT: Rich Rushton, Rushton Chartock Architects
OWNER: Kelly and Deborah London
CEQA STATUS: Categorically exempt, § 15301(a) and 15303(e)



232 HILLSIDE DRIVE

BACKGROUND

The 208,181 square foot site slopes up from the terminus of Hillside Drive and is accessed by a long private driveway. The Hill Area Residential Development Permit and Residential Second Unit Use Permit for the 3,268 square foot residence and garage and 576 square foot second unit were approved by the Planning Commission in 1995 and the structures were completed in 1997.

DISCUSSION

On May 15th, 2014 the Planning Commission approved a Hill Area Residential Development Permit, Excavation Permit, Ridgeline Scenic Corridor Permit and Design Review Permit for the construction of a 924 square foot pool surrounded by patio, a 1,372 square foot cabana/open storage structure and a 506 square foot employee living quarters (3rd unit) for the au-pair in the basement.

The applicant is now requesting a modification of the Hill Area Residential Development Permit to enclose the 408 square foot open storage area located at the south east corner of the cabana converting it into a garage/storage room.

The location of the proposed and existing structures far exceed all of the required setbacks and will maintain a Floor Area Ratio and Lot Coverage well below the permitted .40 FAR and .35 lot coverage limits. The projects compliance with the requirements of the Upland Residential UR Zone District where the site is located is as follows:

	Front Setback	Rear Setback	Combined Front/rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	12 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft., 2 stories
Existing	171 ft.	180 ft.	351 ft.	47 ft. & 350 ft.	397 ft.	.03	.02	N/A
Proposed	same	130 ft.	301 ft.	47 ft. & 240 ft.	287 ft.	same	same	14.5 ft., 1 story (cabana)

The proposal requires the approval of the following discretionary permit:

A Modification of the approved Hill Area Residential Development Permit:

The original conditions of project approval included the condition that any changes to the approved plans requires the approval of the Planning Commission (Exhibit B – condition of approval # 8).

The enclosure of the outdoor storage making it a part of the cabana structure will not negatively impact the Ridgeline Scenic Corridor and will not significantly change the architecture of the structure. All the original findings for approval of the Hill Area Residential Development permit are still applicable to the revised project.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

The revised plans are subject to review and approval by the Ross Valley Fire Department prior to issuance of the revised building permit.

Marin Municipal Water District, Ross Valley Sanitary District, Fairfax Police, Public Works and Building Departments

None of the above listed agencies/departments had any comments on or conditions for the project.

RECOMMENDATION

1. Move to approve the modification to application # 14-19 by adopting Resolution No. 15-21 setting forth the findings for and conditions of approval.

ATTACHMENTS

Attachment A – Resolution No. 15-21

Attachment B – Letter of action for original project approval dated 5/15/14

RESOLUTION NO. 15-21

A Resolution of the Fairfax Planning Commission Approving a Modification to the Application 14-19 for a Hill Area Residential Development Permit for a Pool and Cabana with Attached Garage/Storage Area at 232 Hillside Drive

WHEREAS, the Town of Fairfax has received an application from Kelly and Deborah London to modify an approved project to enclose a 408 square foot open storage area converting it to a garage/storage area attached to a 1,372 square foot pool cabana on the property designated Assessor's Parcel Number 002-181-03; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on July 16, 2015 at which time the Planning Commission determined that the proposed minor modification complies with the Hill Area Residential Development Overlay Ordinance and the Ridgeline Scenic Corridor Ordinance; and

WHEREAS, based on the plans and other documentary evidence in the record the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project modification

WHEREAS, the Commission has made the following findings:

Hill Area Residential Development

1. The proposed development modification is consistent with the General Plan and the Upland Residential UR 10, regulations which allows the Commission to approve accessory structures such as garages/storage buildings. Therefore, the project is consistent with the purpose and intent of the UR 10 Zoning Regulations.
2. The site planning preserves identified natural features.
3. Vehicular access and parking are adequate.
4. 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.
5. The approval of the Hill Area Residential Development permit modification shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
6. The development and use of property as approved under the Hill Area Residential Development Permit will 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.

7. Approval of the proposed modification to the Hill Area Residential Development permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.
8. Approval of the modification to the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

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

1. This approval is limited to the revised development illustrated on the amended plans prepared by Rich Rushton, pages A1.1, A2.6, A6.2 and A6.3, dated 6/2/15 and the original project submittal plans, pages A2.5, A2.7, and A7.2, dated 10/26/13.
2. 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
 - 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 applicant or property owner shall submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation prior to issuance of the building permit. The

amount shall be retained for 18 months after issuance of the Certificate of Occupancy to ensure the landscaping becomes established.

e. 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.

f. 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.

g. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their recommendations.

h. Submit a record of survey with the building permit plans.

3. 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 remaining 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. Prior to pouring the foundation the surveyor shall submit a letter certifying that the house had been located within the building envelope approved by the Settlement Agreement.

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

e. 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.

4. 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 and planning commission conditions have been complied with including installation of landscaping and irrigation prior to issuance of the certificate of occupancy.

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

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

7. 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."

8. Any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 14-19. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 14-19 will result in the job being immediately stopped and red tagged.

9. Any damages to the public portions of Hillside Drive or other public roadway used to access the sites resulting from construction activities shall be the responsibility of the property owner.

10. 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

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.

11. 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.

12. The plans for the fire access road extension will need to be approved by the Ross Valley Fire Department and the Fairfax Building Official prior to issuance of the building permit for the cabana or pool and the extension will need to be constructed as the first part of the project.

13. A fire break must be maintained around all the structures on the site in compliance with Ross Valley Fire Department Fire Protection Standard 220.

14. The project must comply with Section 610 of the Sanitary Code with respect to swimming pools and the owners must obtain the required pool permit and any permits required for the third living unit from the Ross Valley Sanitary District prior to issuance of the building permit.

15. The above referenced parcel is currently being served. The purpose and intent of this service are to provide water for a single family dwelling. It has come to the District's attention that there are a total of three living units in two residential structures on the property. In order to be in compliance with current MMWD Code, the applicant will be required to install a separate meter for each detached residential structure and purchase water entitlement for the additional two living units. The applicant will also be required to meet any applicable conditions of the Water Conservation Code and Backflow Prevention Department.

16. Conditions placed upon the project by outside agencies may be eliminated or amended with that agencies written notification to the Planning Department prior to issuance of the building permit.

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

The approval of the Hill Area Residential Development permit modification is in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the modified project 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 16th day of July, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Planning Commission

Attest:

Jim Moore, Director of Planning and Building Services



TOWN OF FAIRFAX

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

May 19, 2014

Rich Rushton
Rushton Chartock Architects
P.O. Box 173
Fairfax, CA. 94978

NOTICE OF PLANNING COMMISSION ACTION

RE: 232 Hillside Drive; Application # 14-19

Request for a Hill Area Residential Development permit, Use Permit, Excavation and Design Review permit to construct an 864 square foot pool cabana and swimming pool and to convert 518 square feet of the basement of an existing single family residence to a third living unit for an employee on a developed single-family residence site that is already developed with a second living unit; Assessor's Parcel No. 002-181-03; Upland Residential Deborah and Kelly London, owners; Rich Rushton, Rushton Chartock Architects, applicant; CEQA categorically exempt, § 15301(a) and 15303(e).

Dear Mr. Rushton,

At its meeting on May 15, 2014, the Fairfax Planning Commission approved the above referenced application subject to the following conditions of approval:

1. This approval is limited to the development illustrated on the plans prepared by Rich Rushton, pages A1.1, A2.5, A2.6, A2.7, A7.2, dated 10/26/13 and the engineering drawings by J.L. Engineering, dated March 2014, by J.L. Engineer, pages C1 through C4.
2. 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

ATTACHMENT *B*

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 applicant or property owner shall submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation prior to issuance of the building permit. The amount shall be retained for 18 months after issuance of the Certificate of Occupancy to ensure the landscaping becomes established.

e. 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.

f. 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.

g. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their recommendations.

h. Submit a record of survey with the building permit plans.

3. 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 remaining 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. Prior to pouring the foundation the surveyor shall submit a letter certifying that the house had been located within the building envelope approved by the Settlement Agreement.

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e. 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.

4. 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 and planning commission conditions have been complied with including installation of landscaping and irrigation prior to issuance of the certificate of occupancy.

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

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

7. 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."

8. Notwithstanding section # 17.036.050(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 # 14-19. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 14-19 will result in the job being immediately stopped and red tagged.

9. Any damages to the public portions of Hillside Drive or other public roadway used to access the sites resulting from construction activities shall be the responsibility of the property owner.

10. 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.

11. 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.

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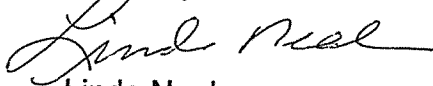
RIGHT TO APPEAL

You and/or any interested citizen have the right-of-appeal to the Town Council any decision of the Planning Commission within ten days of the action. Contact the Planning Department staff at the Fairfax Town Hall for further information on how to appeal a Planning Commission decision and/or condition of approval.

If plans or other supplemental information were submitted for the Planning Commission hearing and the applicant would like to have them back, they must be picked up after the 10 day appeal period but before 15 days from the date of the meeting.

If you have any questions regarding the Planning Commission action please feel free to contact the Fairfax Planning Department.

Sincerely,



Linda Neal
Principal Planner

cc. Kelly and Deborah London