

Fairfax Town Council Minutes
Regular Meeting
Via teleconference due to COVID-19
Wednesday, **November 4, 2020**

Mayor Goddard called the Regular meeting to order at 7:00 p.m.

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT: Bruce Ackerman
Barbara Coler
Renee Goddard
Stephanie Hellman
John Reed

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Ben Berto, Planning Director
Kara Spencer, Assistant Planner

Mayor Goddard explained the various ways the public could participate in the meeting.

Approval of Meeting Agenda and Affidavit of Posting

M/S, Coler/Ackerman, Motion to approve the Affidavit of Posting and the agenda as submitted.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Land Acknowledgement

Announcements

Mayor Goddard made the announcements as they appeared on the agenda.

Open Time

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report on the Commission's activities. The Commission is meeting tomorrow to discuss "COVID-19 and Fresh Perspectives on Mental Health Issues". The Fairfax Age Friendly Forum is scheduled for November 18th. The Town Council passed a Climate Emergency Resolution calling for zero emissions by 2030. The Climate Action Committee has been meeting regularly and is working diligently on the Climate Action Plan.

Ms. Pamela Meigs asked about the striping on Cascade Drive.

Mr. Frank Egger asked if generators had been installed at Victory Village and Bennet House.

Ms. Deborah Benson requested installation of striping on Cascade Drive.

Mr. Joe McGarry congratulated Councilmembers Coler and Ackerman on their re-election and recognized Councilmember Reed for his years of service. He stated there is an opportunity to do some good work through the RESJ and continued activism.

Ms. Lin Shien Bell stated the streetlights are too bright and should be shaded.

Presentation

Maintenance of trees on Town-owned properties- Urban Forestry Associates

Mr. Ray Moritz, Urban Forestry Associates, gave a report on the status and maintenance of trees on Town-owned properties. He answered questions from Council.

Mayor Goddard opened the meeting to public comments.

Ms. Kirsten Asher stated a group of residents had hired an arborist to get a second opinion about the redwoods that were tagged.

Ms. Deborah Benson, member of the Tree Committee, was concerned about the Town's removal of the redwood trees without going through the Tree Committee.

Ms. Pamela Meigs stated there should be an arborist checking on these trees once a year.

Mr. Mark Bell, Dominga Avenue, stated the Town should irrigate the trees.

Ms. Ling Shien Bell stated the way the carved tree stumps by the picnic tables were ugly.

Mr. Chance Cutrano suggested leaving some of the dead trees upright or as downed logs for natural habitat.

Mr. Frank Egger, Meadow Way, stated Town staff did not order the cutting of the third growth trees that happened six weeks ago. He discussed recommendations for tree health.

Ms. Jane Richardson stated the Tree Committee needs to be involved in anything concerning Town trees. The Town needs a maintenance program and budget for taking care of trees.

Mayor Goddard closed the meeting to public comments.

Mayor Goddard reiterated that the Tree Committee will be meeting on November 9th.

Consent Calendar

1. Accept Financial Statements and Disbursement Reports July-August 2020- Finance Director
2. Receive written reports on Councilmember's assignments, committees, and activities in October- Town Clerk
3. Approve minutes for the September 2, 2020 Town Council meeting- Town Clerk
4. Receive report of Town Hall closure and winter furlough days for Town Hall employees From December 24, 2020 through January 3, 2021- Town Manager
5. Adopt a Resolution establishing the regular Council meeting dates for the months of January and July in 2021, and confirm 2021 meeting calendar- Town Clerk
6. Approve agreement with OLAS Performance to provide facilitation services for the Racial Equity and Social Justice Committee in an amount not-to-exceed \$40,000- Town Manager

7. Adopt a Resolution Authorizing the Mayor to Sign the Dissolution Agreement of the Marin County Major Crimes Task Force- Town Manager
8. Adopt a Resolution Opposing Offshore Oil and Gas Drilling and Exploration Activities, Including Seismic Airgun Blasting- Mayor Goddard

Councilmember Coler thanked the Finance Department for getting the new software up and running.

Mayor Goddard read the Resolution referred to in item #8.

Mr. Mark Bell had a question about item #6.

Ms. Deborah Benson had a question about the new format of the financial statements, and the budget for the RESJ.

M/S, Coler/Reed, Motion to approve the Consent Calendar.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

Public Hearings

9. Appeal of the Planning Commission action of approving Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permit for the expansion and remodeling of the single-family home located at 6 Walsh Lane Categorically exempt from CEQA under CEQA guidelines per Section 15301(e)(2)(A) (Class 1) and 15302 (Class 2)- Assistant Planner

Councilmember Ackerman recused himself from this item because he lives within 500 feet of the subject property and left the meeting.

Assistant Planner Spencer presented a staff report.

Councilmember Hellman asked why the appellant was not able to respond in the second half of the Planning Commission meeting. Assistant Planner Spencer stated he was allowed to participate in the public portion of the meeting.

Mayor Goddard asked if only one corner of the house is proposed to be 31 feet in height. Assistant Planner Spencer stated the portion of the house that will be 31 feet in height is the addition.

Mayor Goddard asked about grading for the garage. Assistant Planner Spencer stated the geotechnical reports were reviewed by the Town Engineer who did not raise any red flags. Planning Director Berto stated 233 cubic yards were being excavated and they are limited to 10-yard dump trucks. Dropping the project deeper into the footprint of the building would require more excavation.

Mayor Goddard opened the Public Hearing.

Mr. Morgan Hall, appellant, stated he is representing the neighborhood of Walsh Lane. Walsh Lane is a small neighborhood - the lane is 10 feet wide, a block long, and a dead end. He stated that many of the Design Review and Hillside Residential Development requirements were not addressed by the Planning Commission. Variances were not sought. He spoke about the

deficient setbacks and the restrictions of the non-conformities. The definition of the basement was incorrectly interpreted and should have been included in the floor area ratio (FAR) calculations.

Ms. Laura Kehrlein, project architect, presented some slides and responded to the appellant's statements. She stated the homeowner is remodeling to repair structural deficiencies and to accommodate the needs of his family. The design fits within the lot, meets height requirements, and all of the Town's legal requirements. She disputed the appellant's reasons for the appeal. She asked the Council to deny the appeal and uphold the decision of the Planning Commission.

Ms. Deborah Benson stated this project removed 300 cubic yards of earth. It did not fit with the homes in the neighborhood and was overbuilt. She opposed approving large homes in small neighborhoods. She asked the applicant to compromise.

Mr. Larry Bragman stated this was a pre-existing, non-conforming property. He stated the project was six feet short of the required 35-foot combined front and rear setbacks on a sloped lot. The minimum required side yard setback is five feet and one of them is four feet, six inches. This was a non-conforming lot. A non-conforming structure cannot be expanded without a variance. He stated the project should be sent back to the Planning Commission for a variance.

Mr. Christof Bessler stated the residents on Walsh Lane agree that the project does not fit in with the neighborhood.

A resident stated Fairfax was a rare community, and that construction can be destruction.

Mr. Rick Hamer stated he had made a comment at the Planning Commission meeting about the carbon footprint of the project. He agreed with the comments made by Mr. Bragman. He agreed there were deficiencies in the existing house. A five-bedroom house would impact the neighborhood.

Ms. Ann Fry was opposed to the project and stated it would completely block her southern ridgeline view. The higher roofline would impact the amount of light she receives in the wintertime.

Ms. Pamela Meigs appreciated the comments made by Mr. Hall and Mr. Bragman. She was concerned about the setback and FAR issues. The project was out of character for the neighborhood.

Mr. Frank Egger, Meadow Way, stated the Private Road Ordinance required a twenty-foot-wide road but Walsh Lane was an eight-foot-wide, gravel dirt road. He was concerned about access for emergency vehicles, and about Wildland Urban Interface (WUI) Zone issues. He urged the Council to grant the appeal.

Karen was concerned about the size of the house and the number of truck trips during construction.

Barbara, Walsh Lane, stated there have been many remodels in the neighborhood, but none have raised as many concerns as this project.

Tia, Walsh Lane, opposed a five-bedroom house in the neighborhood. It was out of character with the neighborhood. She was concerned about parking on the street.

Juan Carlos stated change affected everybody. He was concerned the proposed excavation will damage the stability of the ground.

Councilmember Reed asked why the applicant did not apply for a Variance. Town Attorney Coleson explained that a Variance was not required.

Councilmember Hellman asked if there was an effort to have a community meeting.

Ms. Kehrlein stated yes, the trustee and project manager invited the neighbors into the home to review the plans.

Mr. Hall discussed the history of the property and stated the initial problem was the location of the sewer line.

Councilmember Hellman asked the applicant about the privacy issue described in the appeal related to the deck. Ms. Kehrlein stated there is no view into any of the windows of 10 Walsh Lane (except the garage).

Mr. Hall stated the new deck off the master bedroom is misrepresented on the plans and sticks out beyond the existing vegetation. The back deck was designed without sensitivity to his privacy. It is twenty feet closer to his property and the surface will be about twelve feet higher than the surface of his deck.

Councilmember Reed stated the neighbor to the north asserts that the new building takes away her view to the south. He asked Mr. Hall to what extent that view will be interrupted or changed.

Mr. Hall stated the neighbor had presented a slide to the Planning Commission.

Ms. Kehrlein stated the North side of 6 Walsh Lane will have clerestory windows so there should not be any restriction of light into the Manzanita property.

Mayor Goddard asked Ms. Kehrlein about the definition of a "basement" and the seven-foot ceiling heights.

Ms. Kehrlein stated the entire lower floor is unimproved and is not counted as square footage. Town staff verified the floor area calculations and that they are staying below a 0.40 FAR.

Mr. Hall discussed two definitions of "basement" in the code and stated this is not a basement but could easily be converted to living space.

Town Attorney Coleson stated staff would provide more information, including definitions, at the next meeting.

Mayor Goddard closed the Public Hearing.

Councilmember Coler suggested continuing this item to allow staff to address the issues raised.

M/S, Coler/Reed, Motion to continue this item to the November 18th meeting to allow staff to address the following issues: 1) Setbacks; 2) Floor Area Ratio (FAR) with respect to legal nonconformity; 3) The lower floor area (unfinished/basement) and how it relates to FAR; and any other issues that staff deems appropriate.

AYES: Coler, Hellman, Reed, Mayor Goddard

RECUSED: Ackerman
(Through a roll call vote)

Councilmember Ackerman returned to the meeting.

The Council took a 5-minute break at 10:20 p.m.

10. 80 Crest Road: Appeal of a Planning Commission Denial of a Height Variance for an unpermitted Ground Floor Level that would result in the height of the residential structure being approximately 50 feet; Assessor's Parcel No. 002-152-32; Residential Single-Family RS-6 Zone; Verle and Marlene Sorgen, appellants/owners; CEQA Categorically Exempt Per Sections 15301(e)(2)(1), 15060(c)(3)- Principal Planner, Town Manager
This item has been continued to the December 2, 2020 Town Council Meeting

Mayor Goddard stated this item was continued to the December 2, 2020 meeting.

Regular Agenda

11. Provide direction to staff regarding the closure and uses of the lower portion of the Mono Parking Lot- Town Manager

Town Manager Toy presented the staff report.

Councilmember Reed stated this lot seemed to be an extension of the Gestalt Haus and he asked who else used it. Town Manager Toy stated people who bought food from other restaurants use it.

Mayor Goddard opened the meeting to public comments.

Mr. David Smadbeck, representing the Chamber of Commerce, stated when he recently checked the survey there were ninety-two respondents. There were a lot of positive responses with a few negatives from people who use the lot. There were no new responses to the business survey. The Gestalt Haus has maintained the space with help from the Chamber of Commerce. Enhancements, including greenery, would be wonderful but the lack of a water source was a challenge.

Ms. Deborah Benson, Cascade Drive, stated the space was used by people who were not eating or drinking, not practicing social distancing, and not wearing masks. She asked that the space be monitored.

Ms. Brenna Gubbins suggested putting a hand washing station in that area. She asked how many Fairfax residents had responded to the survey.

Mayor Goddard closed the meeting to public comments.

The Council reached consensus to keep the lot open Wednesday through Sunday, to remain flexible in terms of how long this will go, to prepare a Town wide survey, and install a hand-sanitizing station.

12. Approve a six-month schedule of monthly special meetings- Town Manager

Town Manager Toy presented the staff report.

Mayor Goddard opened the meeting to public comments and, seeing none, closed it.

M/S, Coler/Hellman, Motion to approve the six-month schedule for monthly special meetings with an amendment to hold the Special meeting in March on March 17th and to hold the Council Retreat on March 26th.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

13. Adoption of “An Ordinance of the Town Council of the Town of Fairfax Authorizing the Town Manager to Issue Temporary Outdoor Use Permits to Allow Restaurants and Other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup and Waiving any Applicant Fees in the Town’s Review Process, and Authorizing The Expiration Date of Such Permits to be Set by Resolution” and Adoption of a Resolution Setting An Expiration Date of May 31, 2021 for the Issuance of Temporary Outdoor Use Permits to Allow Restaurants and other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup; Categorical exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1 Existing Facilities- Town Manager

Town Manager Toy presented the staff report.

Mayor Goddard opened the meeting to public comments, and, seeing none, closed it.

M/S, Coler/Ackerman, Motion to waive the second reading and Adopt an Ordinance of the Town Council of the Town of Fairfax Authorizing the Town Manager to Issue Temporary Outdoor Use Permits to Allow Restaurants and Other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup and Waiving any Applicant Fees in the Town’s Review Process, and Authorizing The Expiration Date of Such Permits to be Set by Resolution” and Adopt a Resolution Setting An Expiration Date of May 31, 2021 for the Issuance of Temporary Outdoor Use Permits to Allow Restaurants and other Businesses to Provide Outdoor Dining, Other Retail/Commercial Uses, and Curbside Pickup.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

14. Adopt a Resolution to extend the terms of temporary outdoor encroachment permits to May 31, 2021; Categorical exemption under CEQA Guidelines Section 15061(b)(3) and Section 15304(e)- Town Manager

Town Manager Toy presented the staff report.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated he supported the “parklets” and maximum flexibility for all small businesses during the pandemic. He was concerned about emergency vehicle access on Bolinas Road.

Ms. Brenna Gubbins agreed with the comments made by Mr. Applebaum. She was concerned that the planters block the view of the crosswalk.

Ms. Deborah Benson proposed the Coffee Roastery move the outdoor seating onto Broadway and the bike racks to the Parkade. This would return the loading zone and leave Bolinas Road open for evacuation purposes.

Mayor Goddard closed the meeting to public comments.

Councilmember Coler stated the tables in the road at the corner of Broadway and Bolinas need to be moved since they were not approved. The plantings should also be moved since they are in the way of people trying to maneuver the sidewalks. Signage should be installed instructing the delivery drivers to go around the block. She supports the resolution.

Councilmember Hellman agreed with Councilmember Coler.

Councilmember Reed stated visibility and access to that crosswalk needs to remain open. He stated the Fire Chief told him the presence of the “parklets” blocking Bolinas Road was a non-issue.

Councilmember Ackerman agreed with the comments of the Councilmembers.

Councilmember Coler noted a typographic error in the resolution- under passed and adopted it should say “4th” instead of 4ht.

M/S, Coler/Reed, Motion to Adopt a Resolution to extend the terms of Temporary Encroachment Permits, i.e. right-of-way agreements, to May 31, 2021 with the correction made by Councilmember Coler.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard
(Through a roll call vote)

Council Reports and Comments

Mayor Goddard reported Councilmembers written reports and comments were contained in the packet.

Town Manager's Report

There was no report.

M/S, Reed/Ackerman, Motion to adjourn the meeting at 11:43 p.m.

AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

Respectfully submitted,

Toni DeFrancis,
Recording Secretary