

DESCRIPTION

Applications were submitted for Hill Area Residential Development, Excavation, and Design Review permits on December 19, 2019. The project was declared complete on August 7, 2020.

The project proposes the following:

1. Remodeling and expanding an existing 1,510 square foot, two-story, 20-foot 10-inch tall, three bedroom, two bathroom, single-family residence into a 2,866 square-foot, approximately 31-foot 10-inch tall, five bedroom, four bathroom, residential structure with 1,916 square feet on the (upper) main floor and 950 square feet on the lower floor;
2. 294 square feet of new decks and in-kind replacement of an existing 66 square foot deck at the northwest corner of the upper floor;
3. A new 421 square foot, two car garage;
4. A new 704 square foot driveway with a retaining wall ranging in height from one foot six inches to five feet six inches;
5. Replacement of the existing foundation; and,
6. Replacement of the existing wood shingle siding with cement board siding.

The upper floor of the residential structure would consist of the primary bedroom with a bathroom, two additional bedrooms (one with a private bathroom), a kitchen, great room, and one bathroom. The lower floor would have two bedrooms, one bathroom, and a family room.

Project grading consists of approximately 233 cubic yards of cut material for the new foundation, driveway, and garage, which will be off-hauled.

It should be noted that the Fairfax Tree Committee has not reviewed the Tree Removal Permit, as the Committee has not met since February 24, 2020 (prior to shelter-in-place requirements for the COVID 19 pandemic). The Town Council is aware that the Tree Committee has not met due to the COVID 19 pandemic. In order to meet State permit streamlining act requirements, the tree removal permit application will be acted on by the Planning Commission without the recommendation of the Fairfax Tree Committee. The Fairfax Tree Committee is scheduled to meet August 24, 2020, but due to a significant backlog of applications, it is unknown when the Tree Removal Permit for this project would have been reviewed by the Fairfax Tree Committee.

The following table illustrates the project's compliance with the regulations of the RS-6 Single-family Residential Zone, High-Density District where the property is located:

	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	35 ft., 3 stories
Existing	11 ft.	18 ft.	29 ft.	4 ft., 6 in. & 34 ft.	38 ft., 6 in.	.21	.33	20 ft. 10 in., 2 stories
Proposed	11 ft.	18 ft.	29 ft.	4 ft., 6 in. & 15 ft., 6 in.	19 ft., 6 in.	.40	.30	31 ft. 10 in., 2 stories

BACKGROUND

The approximately 7,200 square-foot project site slopes down from Walsh Lane at an average of 32%. It is developed with a 1,510 square foot, two-story single-family home that was constructed in 1967. The lower floor consists of unconditioned space and the upper floor contains three bedrooms, two bathrooms, a kitchen, dining area, and living room. The upper floor and lower floor are connected by an internal stairway. An existing dirt parking area is located at the front of the residence and several low retaining walls are located downslope to the rear of the property. Walsh Lane is a narrow dirt and gravel road that is not maintained by the Town.

The site is identified as being within Stability Zone 3 (with 1 being the most stable and 4 the least) by "Geology for Planning: Central and Southeastern Marin County" prepared by Rice, Smith, and Strand of the California Division of Mines and Geology in 1976. Town of Fairfax Figure S-3 "Areas Susceptible to Landslides" (adopted by Ordinance No. 846 on February 25, 2020 by the Town Council) identifies the site as "Multiple Landslides." There was no sliding reported on the site during the severe weather events of 1982 and 1997-98.

The existing sewer lateral travels southwest downslope from the residence through 10 and 20 Walsh Lane and empties into a main in lower Frustuck Avenue. Ross Valley Sanitary District did not note any issues regarding the location of the lateral within 10 and 20 Walsh Lane. The sewer lateral was recently replaced and RVSD confirmed that the work met their requirements. See Attachment B for sewer lateral replacement report.

There is no record of an easement for the existing sewer lateral across the 10 and 20 Walsh Lane properties. A neighbor has written and provided photos documenting his

concerns with the current sewer lateral for 6 Walsh Lane. Refer to Attachment C for the neighbor's comments and photos regarding the sewer lateral on her property.

REQUIRED DISCRETIONARY APPROVALS

The project requires the approval of Hill Area Residential, Excavation, Design Review and Tree Removal permits. It meets the Town's parking requirements [Town Code § 17.052.030(A)(1)] with the two proposed spaces in the garage and third off-street guest space in the driveway.

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)].

Town Code §17.072.090(C)(1) requires graded slopes to be sculptured and contoured to blend with the natural terrain and Town Code §17.072.090(C)(3) requires that the height of retaining walls be minimized within the Hill Area Residential Development Overlay Zones. The project proposes a new concrete retaining wall that would be located between the proposed driveway and existing home. The retaining wall would slope downward from Walsh Lane and range in height from 1'-6" to 5'-6".

Town Code § 17.072.090(D) indicates that projects within the Hill Area Residential Development Overlay Zone shall be designed to minimize disruptions of existing ecosystems. All construction will occur in areas that have already been disturbed by the existing development. A new foundation would replace the existing foundation within the footprint of the existing house. New foundation walls for the two-story lower floor garage/upper floor primary bedroom addition would be constructed in an area that had previously been contoured, graded, and developed with patios. The proposed retaining wall and driveway would also be located in this formerly disturbed area and require only modest grading to provide adequate access to the proposed garage. The new garage would provide two covered off-street parking spaces for the residence, while the driveway would provide the one additionally required off-street guest parking space. The new foundation would provide a beneficial effect of stabilizing the existing single-family home on the site.

Drainage and Slope Stability

The Town Engineer reviewed the entire body of information provided by the applicant regarding the project, including the project engineering and architectural plans, as well

as the geotechnical report by Herzog Associates dated 12/19/20 (Attachment D). After completing the review and visiting the site on 1/16/20, the Town Engineer determined that the project can be constructed as proposed without creating any significant geologic or hydrologic hazards for adjacent public or private properties as long as certain conditions are met (incorporated as conditions of project approval).

A new downspout collection system would be installed that would collect runoff and convey it via a combination of four and six inch piping around the north and south sides of the house to a six inch dispersal pipe downslope of the existing residence and proposed two-story lower floor garage/upper floor primary bedroom addition.

House Siting and Design

As indicated above, the project would not extend beyond areas of the site that are already disturbed by development. It also includes converting existing unconditioned space in the lower level into interior living space. Aside from raising the house elevation by two feet, the conversion would not affect the visual aspect of the house.

Excavation

Town Code §12.20.080 requires that the Planning Commission approve an Excavation Permit for excavation and fill amounts of over 100 cubic yards. Implementation of the project requires 233 cubic yards of excavation.

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 natural landscaping will not be removed by the project more than is necessary 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 excavation of 233 cubic yards is the minimum necessary for the creation of the driveway to the garage, the garage pad, and the building walls and floor slabs, per the Town Engineers' recommendations to ensure slope stability throughout the project site and to comply with building and fire codes. In their final report (Attachment D), the Town Engineers have indicated that the site can be developed without causing adverse geologic or hydrologic impacts on adjacent properties as long as the following conditions are complied with, and the plans are reviewed and approved by them, prior to issuance of the project building permit:

1. The applicant shall submit with the building permit application plans the recommendation from the project geotechnical engineer on the suitability of the

proposed foundations improvements and existing drainage systems, and plans shall be revised if/as needed to reflect the geotechnical engineer's recommendations.

2. Design level grading, drainage, structural, and construction management plans shall be provided.

Design Review

Town Code §17.020.030(A) requires that the Fairfax Planning Commission review and approve the design of new residences to ensure compliance with the design review criteria contained in Town Code §17.020.040.

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 natural features, including trees, shrubs, creeks and rocks and the natural grade of the site are to be retained."

The hillside setting of Walsh Lane is like many other residential neighborhoods in Fairfax and is characterized by an eclectic mix of homes surrounded by mature oak and bay trees, along with other native vegetation and landscaped yards. Walsh Lane is not a highly visually prominent street and the project's location on Walsh Lane is largely obscured by vegetation and other homes. The existing home is clad in natural wood shingles and generally conforms with the eclectic mix of homes in the surrounding vicinity.

The project proposes new light brown cement board panels to replace the existing natural wood shingles, a fire safety improvement. The two-story lower floor garage/upper floor primary bedroom addition would be covered in 4' by 8' dark blue cement board panels. The door and window frames, trim, and railings would be black. The retaining wall adjacent to the driveway would be unfinished concrete and gray asphalt shingles are proposed for the roof. The proposed exterior would meet Wildland Urban Interface (WUI) fire requirements and be natural or dark colors to blend in with the natural setting and the assorted mix of homes in the surrounding neighborhood.

The remodeled home would be similar to many other homes located on sloped sites throughout the hillsides of Fairfax and would meet all of the relevant development standards in the Fairfax Municipal Zoning Ordinance, including the Design Review

Criteria. The siting and design of the residence is generally in keeping with other residences in the neighborhood and provides a balanced, well-composed design on the project site. Additionally, the project would require minimal disturbance to a site that has been previously disturbed by the existing development. While three bay tree clumps would be removed with project implementation, their removal would be necessary for fire safety clearance regardless of whether the project is approved or is not approved.

The addition of 1,357 square feet of living space to the existing 1,501 square foot home (for a total of 2,866 square feet of living space) would make it one of the larger homes in the immediate neighborhood. However, with the exception of the addition, the majority of the additional living space would be created by converting unconditioned space that already exists within the lower level. While the addition would fall outside of the footprint of the existing home, it was designed to blend in with the existing home and complement its rooflines. Moreover, it would be located in an area of the project site that has already been disturbed by the existing development.

The butterfly design of the roof over the proposed addition creates the greatest building height. The 31 foot 10 inch height is within the Town’s 35 foot height limit.

The table below provides a summary of lot and home sizes in the immediate area. The proposed project would have approximately twice the Floor Area Ratio (FAR of .40) of most of the other homes in the vicinity. As noted above, most of the residence’s additional area comes from conversion of underfloor space, and only results in a modest visual impact from the 2 foot increase in general building height.

6 Walsh Avenue – Immediate Neighborhood Comparison						
APN #	ADDRESS	LOT SIZE	HOUSE SIZE	# BEDROOMS	# BATHS	Floor Area Ratio
002-021-17	65 Manzanita	7,500	1,437 SF	3	2	.19
003-192-23	68 Manzanita	8,100 SF	793 SF	1	1	.10
003-192-24	70 Manzanita	6,500 SF	1,359 SF	2	2	.21
003-192-55	76 Manzanita	9,277 SF	1,990 SF	4	2	.21
003-192-20	10 Walsh	9,000 SF	2,000 SF	4	2	.22
003-192-32	20 Walsh	7,000 SF	1,531 SF	3	2	.22
003-192-36	24 Walsh	6,600 SF	1,472 SF	1	1	.22
003-201-18	21 Walsh	10,449 SF	900 SF	1	1	.09

Tree Removal Permit

The project includes the removal of three bay tree clumps. One bay clump is in the location of the garage addition, but removal of all three clumps is warranted for fire safety purposes regardless of whether the project is constructed or not. While the Tree Committee has not met since February due to the COVID 19 pandemic and has not reviewed the Tree Removal Application for the project, recent changes in the Tree Ordinance assign the Planning Commission the responsibility to make decisions on Tree Permits accompanying projects within their purview.

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department (RVFD)

The following summarizes RVFD requirements, which have been incorporated into conditions of approval in the attached resolution. Construction shall comply with the requirements of Chapter 7A of the 2016 California Building Code. A Class "A" roof assembly is required. All vegetation and construction materials are to be maintained away from the residence during construction. A fire sprinkler system shall be installed throughout the entire building. Smoke detectors shall be installed throughout the entire building and be provided with AC power and be interconnected for simultaneous alarm. Carbon monoxide alarms shall be provided outside each sleeping area in the immediate vicinity of the bedrooms. Address numbers at least 4 " tall are required and must visible from the street, controlled by a photocell and illuminated all night. A Vegetation Management Plan (VMP) is required for the project. RVFD approved the VMP for the project on June 24, 2020.

Marin Municipal Water District (MMWD)

Written requirements submitted by MMWD have been incorporated into conditions of approval in the attached resolution. The following summaries those comments: comply with Ordinance No. 429 requiring the installation of grey water recycling system when practicable for existing structures undergoing a substantial remodel that necessitates enlarged water service; indoor and outdoor requirements of District Code Title 13 - Water Conservation must be complied with; any landscaping plans subject to review by the Town of Fairfax or subject to a Town permit must be reviewed and approved by the District; backflow prevention requirements must be met; all the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

RVSD submitted the following written requirements, which have been incorporated into conditions of approval in the attached resolution: Plans shall be reviewed and approved by RVSD which show the location of the RVSD sewer main, existing lateral, and point-of-connection for the proposed improvements, the elevation of the lowest-habitable-floor in the structure (the basement) and the elevation of the nearest downstream sewer manhole on the RVSD mainline; and, the location of all existing or proposed sewer cleanouts, check and/or backwater devices located outside the foundation of the proposed structures.

A neighbor has complained that the existing sewer across the neighboring property does not comply with standards for private sewers, and that there is no easement for the sewer. No evidence has been presented regarding sewer noncompliance, and RVSD inspected the recent sewer line sleeving and did not comment on any violations.

Given that the sewer lateral traverses across two adjacent properties, staff requests that the Planning Commission provide direction on whether the applicant should improve the existing sewer lateral and document the existence of an easement, revise the sewer plan to route the lateral down Walsh Avenue to Manzanita Road, or whether this is a private matter to be worked out between the private property owners?

Police, Building and Public Works Departments

There were no comments received from the Police, Building or Public Works Departments.

RECOMMENDATION

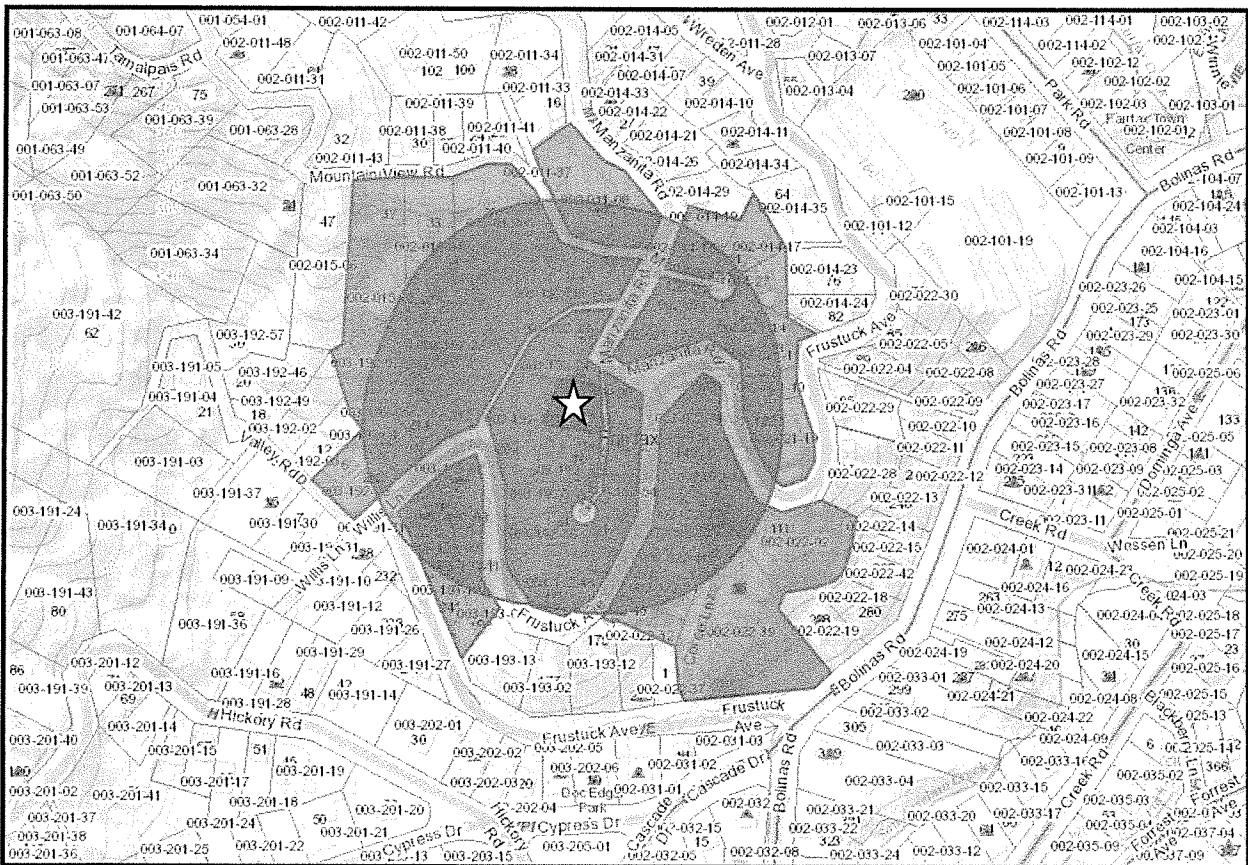
1. Conduct the public hearing.
2. Move to approve Application 20-8 and adopt Resolution No. 2020-08 (Attachment A), setting forth the findings and conditions for project approval

ATTACHMENTS

Attachment A – Resolution No. 2020-08
Attachment B – Sewer Lateral Replacement Report
Attachment C – Neighbor Sewer Comment and Photos
Attachment D – 12/19/20 Herzog Geotechnical Investigation report
Attachment E – Town Engineer’s final report on project
Attachment F – Tree Removal Application
Attachment G – Vegetative Management Plan Approval Letter from Ross Valley Fire District

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

TO: Fairfax Planning Commission
DATE: September 17, 2020
FROM: Kara Spencer, Assistant Planner
LOCATION: 6 Walsh Lane
PROJECT: 50 percent remodel and two-story addition to single family residence
ACTION: Hill Area Residential Development, Excavation, Design Review and Tree Removal permits; Application # 20-8
APPLICANT: Laura Kehrein, Architect
OWNER: Irene Pan Panagoulis Survivor's Trust
CEQA STATUS: Categorically exempt, § 15301(e)(2)(A)



6 WALSH LANE

BACKGROUND

The Planning Commission continued this item from their August 20, 2020 meeting where they gave staff the following direction regarding the project:

1. Provide more information from Ross Valley Sanitary District about (a) whether the project property's sewer lateral is code compliant; and, (b) the ownership and responsibility of the project property's sewer lateral; and,
2. The Town Attorney shall respond to the letter from the property owner's attorney, Mr. Neil Sorensen, including specifically addressing the appropriateness of the prescriptive easement court case mentioned by Mr. Sorensen in his letter because it does not seem applicable to this project, as it has to do with public access to a beach.

For additional information on the project and for the attachments to the August 20, 2020 original staff report on this project visit the Town's website www.townoffairfax.org under the Planning Commission meetings.

DISCUSSION

Sewer Lateral Code Compliance

On September 3, 2020, Assistant Planner Spencer, Planning Director Berto, and Ross Valley Sanitary District (RVSD) Associate Engineer Phill Benedetti did a site visit to 10 Walsh Lane to check the code compliance of the sewer lateral from 6 Walsh Lane where traverses 10 Walsh Lane. The property owner of 10 Walsh Lane, Sharab Bogan-Ziegler and resident of 10 Walsh Lane, Morgan Hall met staff at the site.

During the site visit, Associate Engineer Benedetti, of the Ross Valley Sanitary District, inspected the lateral and confirmed that it is code compliant. He noted that the lateral appears to be buried approximately nine inches below grade. When questioned by Morgan Hall regarding whether the lateral needed to be buried deeper, Associate Engineer Benedetti stated that in a non-traffic area there is discretion regarding the depth of cover. Associate Engineer Benedetti stated that the pipe's condition was not a health and safety issue, but rather an aesthetic issue. Furthermore, during the site visit, Morgan Hall admitted to staff that he dug up the backyard to locate the pipe, which accounts for its exposure. Refer to Attachment B for photos of the exposed sewer lateral.

Staff also received a written email confirmation from Associate Engineer Benedetti (Attachment C) that the lateral passed all inspections; was determined to be in compliance; and, has a certificate of compliance that is good for 20 years.

Sewer Lateral Ownership and Responsibility

RVSD Ordinance 100 addresses the ownership, maintenance, and repair of private sewer laterals (Attachment D). Specifically, Section 7(A) of RVSD Ordinance 100 states, "Private Sewer Laterals shall be owned, maintained and repaired by the Owner(s) of the property served by the Private Sewer Lateral. The entire Private Sewer Lateral, from the building connection to and including the 'wye' connection or other-tie-in to the Sewer Main, shall fall within the Owner's responsibility for installation, maintenance and repair." During the September 3, 2020 site visit, Associate Engineer Benedetti confirmed that the sewer lateral from 6 Walsh Lane that traverses 10 Walsh Lane is a private lateral and not a shared lateral. However, Associate Engineer Benedetti also confirmed when the lateral from 6 Walsh lane enters 20 Walsh Lane it ties into and shares the lateral with 20 Walsh Lane before tying into the main at Frustuck. (See sewer layout in the upper left hand corner of Sheet 2 of the plans). According to Section 13(D) of RVSD Ordinance 100, "The Owners of the parcels served by the Shared Lateral shall jointly be responsible for any maintenance, operation, inspection, testing, and repairs." Therefore, 6 Walsh Lane and 20 Walsh Lane are both responsible for the lateral where it traverses 20 Walsh Lane.

Town Attorney Comments on Letter from Neil Sorensen dated August 18, 2020

The Town Attorney has indicated that she will contact the Planning Commission directly regarding the Letter from the property owner's attorney, dated August 18, 2020.

OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS

Ross Valley Fire Department (RVFD)

The following summarizes RVFD requirements, which have been incorporated into conditions of approval in the attached resolution. Construction shall comply with the requirements of Chapter 7A of the 2016 California Building Code. A Class "A" roof assembly is required. All vegetation and construction materials are to be maintained away from the residence during construction. A fire sprinkler system shall be installed throughout the entire building. Smoke detectors shall be installed throughout the entire building and be provided with AC power and be interconnected for simultaneous alarm. Carbon monoxide alarms shall be provided outside each sleeping area in the immediate vicinity of the bedrooms. Address numbers at least 4 " tall are required and must visible from the street, controlled by a photocell and illuminated all night. A Vegetation Management Plan (VMP) is required for the project. RVFD approved the VMP for the project on June 24, 2020.

Marin Municipal Water District (MMWD)

Written requirements submitted by MMWD have been incorporated into conditions of approval in the attached resolution. The following summaries those comments: comply with Ordinance No. 429 requiring the installation of grey water recycling system when

practicable for existing structures undergoing a substantial remodel that necessitates enlarged water service; indoor and outdoor requirements of District Code Title 13 - Water Conservation must be complied with; any landscaping plans subject to review by the Town of Fairfax or subject to a Town permit must be reviewed and approved by the District; backflow prevention requirements must be met;. all the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

RVSD submitted the following written requirements, which have been incorporated into conditions of approval in the attached resolution: Plans shall be reviewed and approved by RVSD which show the location of the RVSD sewer main, existing lateral, and point-of-connection for the proposed improvements, the elevation of the lowest-habitable-floor in the structure (the basement) and the elevation of the nearest downstream sewer manhole on the RVSD mainline; and, the location of all existing or proposed sewer cleanouts, check and/or backwater devices located outside the foundation of the proposed structures.

Police, Building and Public Works Departments

There were no comments received from the Police, Building or Public Works Departments.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve Application 20-8 and adopt Resolution No. 2020-08 (Attachment A), setting forth the findings and conditions for project approval

ATTACHMENTS

Attachment A – Resolution No. 2020-08

Attachment B – Sewer Lateral Photos

Attachment C – Email from Phil Benedetti, RVSD Associate Engineer

Attachment D – RVSD Ordinance 100

Attachment E – Letter from neighbors on Walsh Lane and Manzanita Road

THE RESIDENTS OF THE NINE HOUSES
ON WALSH LANE AND MANZANITA ROAD
CLOSEST TO 6 WALSH LANE
FAIRFAX, CA.

SEP 09 2020

RECEIVED

September 8, 2020

Fairfax Planning Commission
Fairfax, California

Re: 6 Walsh Lane: 50% remodel and two-story addition
Design Review, Hill Area Residential Development
Application #20-8

Dear Commissioners,

Each and everyone of us object to the proposed changes at 6 Walsh Lane, Fairfax. Unlike the candy-coated Fairfax Staff Report, we recognize this project for what it is.

The project is a for-profit venture by a person not from Fairfax, doesn't intend to live here and doesn't care about our neighborhood or us. The focus of care here is profit.

Such an endeavor is a person's right and is not illegal. It can, however, give rise to expediency and a disregard for the setting and the people who live there. We do not intend to sit by and allow this to roll over us. If approved, a dangerous precedent for Fairfax will be set. Many of us remember what happened to Mill Valley not that long ago.

The development plan for 6 Walsh Lane has tried to obscure the egregious aspects of the project and circumvent the rules that govern it: Fairfax Zoning Code Section 17.020 Design Review and Section 17.072 Hill Area Residential Development Overlay Zone.

We will review the rules and how the proposed work conforms or doesn't conform to them:

SECTION 17.020 DESIGN REVIEW

2.

17.020.020. PURPOSE

(B) The purpose of this purpose of Design Review is to foster good design character through consideration of aesthetic and functional relationships to surrounding development and in order to enhance the town's appearance and the livability and usefulness of properties

17.020.030. APPLICABILITY

Because the proposed project is a 50% remodel and second story addition it subject to the rules and requirements of Design Review.

17.020.040 DESIGN REVIEW CRITERIA

(and conformance or not by the proposed project).

(A) The size and height of the proposal are essentially double that which exists in the immediate area. It is a major departure away from the intent of Design Review. It does not "harmoniously relate" to other facilities there. It would be discordant and not harmonious as seen from a distance.

(B) The elements of design that have a significant relationship to the exterior appearance of the project are to be considered.

Size: The proposed floor area of 2866 square feet is more than double the 1350 square foot average existing floor area in the vicinity. Such size "dwarfs" that of the setting in which it sets.

Height: The proposed height of 31'- 10" hardly relates to the average height of 16'- 6" of the 8 immediate houses on Walsh Lane and Manzanita Road.

Siding and exterior color: The specified siding is the James Hardie "Reveal Panel System." It is a commercial grade cement board panel system and looks like one. It's integral color is a dark blue called "Evening Blue". Such a system and system do not exist in the vicinity and can't be deemed "harmonious." An additional part of the house, the old part, is sided with Hardie cement board smooth lap siding colored "Khaki Brown." This relates better to the immediate area.

(C) It is hard to say whether the new work will hinder or help values in the area. Its disproportionate size will negatively affect the diminutive charm of the area. Should the developer selling the property for the \$ 2.5 million that is claimed, values may very well go up. We, the neighbors, feel that such a scenario would signal the beginning of the end of Fairfax as we know it.

(D) This criterion requires that "the proposed development shall conform with all requirements for landscaping, screening, usable open space and the design of parking and off-street loading areas."

Parking here is very tight and we believe the proposed project will make it worse. Walsh Lane is only 10 feet wide, so there is no street parking. Any additional parking is on private property and unavailable. Immediately beyond Walsh Lane, the roads are narrow and winding. Parking spaces that don't block driveways, fall on private property or obstruct emergency vehicle access are scarce.

The parking created for 6 Walsh Lane is poorly and deficiently designed. Due to the peculiar trapezoidal shape of the garage interior and the obstruction created by the abnormally large landing for Bedroom #3, two 9' x 19' don't appear to exist. For them to be legitimate, it looks like one of the vehicles has to do some maneuvering to get in or out of the garage. Two 8' x 16' compact spaces would work, but aren't code acceptable.

Because Walsh Lane is so narrow, the required guest parking space is not possible in a spot in front of the house, where it usually goes. Fortunately the code allows for a tandem guest space in the driveway when one is not available in the street. This however further complicates the earlier-mentioned problem of the maneuvering necessary to get in and out of the garage.

Further making this situation worse are the 5 bedrooms called for in the house. Chances are that this many bedrooms are going to generate a number of vehicles. The bottom line here is that there are a maximum of 4 legal parking spaces for the new house. Six cars could be fit, but two of them would be in the front yard setback which not code allowed.

The parking problem here will be largely created by the proposed work. We see this as a serious problem that will torment us if the proposal is

approved. There will be the shuffling of cars going on all the time at all hours. Cars will be parked here there and everywhere. The situation will be very annoying as well as unsafe.

It seems that whenever a problem is encountered with the proposed project, it is due more often than not to one thing: putting a house twice the size of anything around on a ten-foot-wide lane.

We can't emphasize enough that this should not be allowed to happen. It is even worse than it appears. The F.A.R. of the new house is .4, the maximum allowed. It is to be pointed out that the 2866 square foot floor area attributed to the house is, in actuality, greater. Exempted from being called floor area, but nevertheless existing, are the garage, two decks and a landing. These components add 670 square feet to the size of the house.

(E) Does not apply.

(F) Does not apply.

(G) Does not apply.

(H) The new structure does not conform to the general character of the other structures in the vicinity. The general character of the vicinity is diminutive and homey and considered architecturally desirable. Given these parameters, the proposed work shouldn't be considered architecturally desirable.

(I) Does not apply.

(J) The proposed excavation and removal of 288 cubic yards of dirt and rock is a blatant disregard for the retaining the natural features and grade of the site. This is a tremendous amount of work, more characteristic of something Ghilotti Brothers might do on Highway 101. Construction is disruptive, but bulldozers, loaders and 30 or 40 truckloads of dirt and rock is truly disruptive.

(K) Parking in the area has already been discussed.

(L) Does not apply.

(M) Does not apply.

(N) Does not apply.

MISCELLANEOUS OBSERVATIONS:

We found two things in the plans that might affect the project adversely.

1. The relationship on the site plans showing the relationship between the new deck off the Master Bedroom of 6 Walsh and the house next at 10 Walsh Lane is inaccurate. The deck is actually farther (relatively speaking) toward the rear of the property than is shown. This affords it a view into the Master Bath and Master Bedroom of 10 Walsh Lane. The privacy that existed for the deck at the rear of 10 Walsh Lane will be gone. The new Master Bedroom deck at 6 Walsh Lane will now look down upon the #10 deck from about 12 feet above it.

2. One member of our little group spotted a sneaky possibility that exists for the new house.

The floor plans there are unusual. There is a Great Room on one level and a Family Room on the other level. The Family Room is hard to figure out. It is about 12 feet wide and about 30 feet long with no apparent use for the entire space. A ping pong table? Two ping pong tables? A very likely function for it would be to, going from east to west, put in a kitchen, then a dining area, then a living room. Voila! We now have a second unit! Bedroom #3 could easily connect to either level depending on how much rent is sought.

This might also explain why the large, awkward landing for bedroom is being kept even with the problems it generates.

SECTION 17.072 HILL AREA RESIDENTIAL DEVELOPMENT OVERLAY ZONE

The proposed changes for 6 Walsh Lane are also subject to the requirements of the Hill Area Residential Development Overlay Zone. Some of these requirements are the same, or very similar to, those of Design Review. Those will not be repeated.

SECTION 17.072.010. PURPOSE

(A). It is the purpose of the hill area residential development overlay zone to provide review of and standards for development proposed for undeveloped land in hill areas.

(B) It is the intent of this chapter to accomplish the following:

- (1) Encourage maximum retention of natural topographic features . . .
Already discussed and proposal violates it.
- (2) Minimize grading of hillside areas.
Already discussed and proposal violates it.
- (3) Provide safe means of ingress and egress for vehicle and pedestrian traffic to and within hillside areas.
Proposal doesn't do anything to help this situation and possibly exacerbates it with 5 bedrooms adding to density and more vehicles in this area.
- (4) Minimize water runoff and soil erosion during and after construction.
Some preliminary drainage control is shown on plans.
- (5) Does not apply.
- (6) Ensure that infill development on hillside lots is of a size and scale appropriate to the property and is consistent with the other properties in the vicinity.

7.

This has already been discussed and the proposed project is woefully lacking in fulfilling this requirement.

We believe this project is dangerous and a threat to everything around us. It will damage our neighborhood, negatively impact our quality of life and set a frightening precedent that could open Fairfax to soulless real estate speculation.

Please do not approve the proposed changes to 6 Walsh Lane.

Thank you for your consideration.

WE OBJECT TO THE WORK PROPOSED AT 6 WALSH LANE FAIRFAX

ADDRESS	NAME	SINCE
10 WALSH LANE	SHARAB BOGAN & MORGAN HALL	2010
20 WALSH LANE	SHANNON SCOTT	2020
21 WALSH LANE	KATHY NORWOOD	1974
24 WALSH LANE	MICHAEL & BARBARA CASADY	1984
65 MANZANITA ROAD	ALISSA VAN LEUVEN	2011
68 MANZANITA ROAD	MICHAEL GOLDMAN	1972
70 MANZANITA ROAD	ANNE FRYE / Kyle W. Grady	2009
76 MANZANITA ROAD	GREG & JES GRADY	2005
76 A MANZANITA ROAD	KAREN SEEKAMP & CHRISTOFF BESSLER	2003

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, SEPTEMBER 17, 2020

Call to Order/Roll Call:

Acting Chair Rodriguez called the meeting to order at 7:00 p.m.

Commissioners Present: Shelley Clark
Norma Fragoso
Mimi Newton
Michele Rodriguez (Acting Chair)
Cindy Swift

Commissioners Absent Esther Gonzalez-Parber
Philip Green (Chair)

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Kara Spencer, Assistant Planner

Planning Director Berto stated individuals wishing to address the Commission should use the "raise your hand" function. The Commission will be flexible in terms of allowing individuals to speak.

APPROVAL OF AGENDA

M/s, Newton/Swift, motion to approve the agenda.
AYES: Clark, Fragoso, Newton, Swift
NOES: Rodriguez
ABSENT: Gonzalez-Parber, Chair Green
(Through a roll call vote).

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Ms. Lynn Yetter asked if the Council and Planning Commission could have Town Hall meetings where people could ask questions and have a conversation. She suggested holding this type of meeting twice a year to provide more cross-talk. She asked them to speak about SB 1120 in the near future. She was concerned about cottage sized homes being demolished and replaced with larger homes. She expressed concern about the Wall property. She would like to see a moratorium on building.

Mr. Rick Hamer, Fairfax, expressed concern with wildfire safety and wanted NOAA radios to be a part of the Fairfax plan. He discussed climate change and stated it needs to be addressed at the local level.

Ms. Debra Benson, member of the Fairfax Tree Committee, stated the recommendation for the removal of Bay trees for fires safety reasons was not valid. Fire Safe Marin does not support the wholesale removal of California Bay Laurels based on the species alone. Wildfire hazards can be mitigated by the removal of shrubs and dead vegetation from the base of the tree. She would like to have a conversation about this issue.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. 6 Walsh Lane; Application #20-8

Continued consideration of a request for Hill Area Residential Development, Design Review, Tree Removal, and Excavation permits for a 50 percent remodel of an existing 1,510 square foot, 3 bedroom, 2 bathroom, single-family residence and a 2 story addition to construct a 2,867 square foot, 5 bedroom, 4 bathroom single-family residence with an attached 2 car garage; Assessor's Parcel No. 003-192-20; RS-6 Single-family Residential Zone; Laura Kehrlein, applicant; Irene Pan Panagoulis Survivor's Trust owner; CEQA categorically exempt per Section 15301(e)(2)(A).

Acting Chair Rodriguez stated she would recuse herself from this item because of the proximity of her residence. She asked the Commission to nominate a Chair Pro Temp.

M/s, Newton/Clark, motion to nominate Cindy Swift to act as Chair Pro Temp for this item.

AYES: Clark, Fragoso, Newton, Swift, Acting Chair Rodriguez

ABSENT: Gonzalez-Parber, Chair Green

(Through a roll call vote).

Assistant Planner Spencer presented the staff report.

Acting Chair Swift opened the Public Hearing.

Ms. Laura Kehrlein, architect, made the following comments:

- She read the letter she sent to staff in response to the neighbor's letter dated September 8, 2020.
- They took a lot of time and care to come up with an application that met all the Town requirements.
- The property has many deficiencies including a crumbling foundation, an unsafe electrical system, lack of parking, and deferred maintenance of the entire property.
- The homeowner invited the neighbors to inspect the plans and the property and nobody expressed any concerns to her prior to this meeting. She has tried to be a good neighbor.
- The homeowner has tried to be respectful of the neighbors. The plan honors all setback requirements.
- The size of the home is controlled by existing conditions including the main floor and approving an existing 950 square foot lower floor basement.
- She displayed a slide depicting the current condition of the basement area.
- She pointed out the previous owner's attempt to repair the foundation. There are cracks and it is crumbling.
- An addition is planned on the side of the property. One corner of the new addition where the grade is lower than the rest of the home footprint is 31'10" where 35 feet is allowed.
- The requested height is the result of a new addition roofline conforming to the existing roofline.
- A 3:12 roof pitch is the minimum needed for a composition shingle roof.
- The proposed addition as seen from Walsh Lane is 26'5" high.
- Exterior material cement board was chosen to make the home fire safe.
- The colors are natural or dark in order to blend in with the natural setting and the assorted eclectic mix of homes in the neighborhood.
- The homeowner has no plans to sell the property at this time.
- A two-car garage is being created in a dirt area that currently serves one car.

- The size and design of the structure meets floor area ratio, lot coverage, and building height requirements.
- The new additions have been designed to blend and be proportional to the existing building.
- The proposed exterior materials were chosen to meet Wildland Urban Interface (WUI) requirements and create a contemporary design.
- The requested excavation is 233 cubic yards and is the minimum needed for the required improvements.
- The proposed deck is relatively narrow (seven feet) and provides outdoor space. It is designed to respect the privacy of 10 Walsh Lane.
- The owner wants to improve the basement area to make it part of the living space with a central staircase.
- The homeowner has no desire to include a second unit on the property.

Assistant Planner Spencer read the property owner's letter into the record.

Acting Chair Swift asked for confirmation that the garage could accommodate two standard sized vehicles (9'x19'). Ms. Kehrlein stated "yes, they just barely fit". Acting Chair Swift referred to the upper level south side windows and asked if they were clear or obscure. Ms. Kehrlein stated they would be tinted.

Mr. Neil Sorenson, attorney for the applicant, made the following comments:

- He was surprised that the Commission received an email from the Town Attorney but it was not provided to the public or to the applicant/owner.
- He was told that once the Town Attorney reviewed his letter then they would have access to that information. He objects to the fact that they do not have access to that information.
- The legal issue is clear. The Commission does not have jurisdiction to decide whether there are easement rights over the adjacent property.

Mr. David Ritter, project manager, made the following comment:

- He had trouble logging into the meeting.

Ms. Debora Benson, Cascade Drive, made the following comments:

- Fairfax is made up of nice old neighborhoods.
- This project does not fit into the neighborhood.
- It is twice the size of other homes in the neighborhood.
- She asked the Commission to follow the Design Review Guidelines.
- "Small town Fairfax" needs to be protected.
- These small cottages provide affordable housing.

Mr. Cristoff Bessler made the following comments:

- He agreed with the comments made by Ms. Benson.
- He lives across from the subject property.
- They need to find a middle ground and a compromise.
- Nothing in the plan conforms to the "average".
- He was opposed to the "mega-mansion". The project is too big.

Mr. Morgan Hall made the following comments:

- The directive of the Commission is to follow the Zoning Code.
- Design Review and the Hill Area Residential Overlay Ordinances are supposed to be used together to create infill development that compliments the surrounding development and not just allow applicants to design to the maximum allowed numbers.
- This project does not conform to the character of the neighborhood.
- The project is a "monster" compared to the others in the neighborhood.

- Excavation and grading should be minimized.
- He was not sure they would be able to get two cars in the proposed garage.
- This project would set a dangerous precedent.

Thea and a friend made the following comments:

- The friend will be able to see the project from his bedroom.
- There are no other five-bedroom homes in the neighborhood.
- She is concerned about evacuation during an emergency.

Mr. Frank Egger, Meadow Way, made the following comments:

- Walsh Lane is not a public street and is not maintained by the Town.
- The proposal is to increase the size of the current structure to 3,288 square feet not counting the deck. The average square footage of neighboring homes is 1,425 square feet.
- The proposed project more than doubles the size of the existing structure.
- The project would change the neighborhood forever.
- The project is located in a Wildland Urban Interface (WUI) Zone.
- He was concerned about evacuation in an emergency.
- He asked the Commission to reject the project, without prejudice, as proposed.

Ms. Barbara Casady, Walsh Lane, made the following comments:

- She is thrilled that the house is finally getting some attention.
- It is an eyesore and has been neglected for a very long time.
- The project is too big and does not fit in with the neighborhood.
- She was concerned with the proposed parking accommodating a five-bedroom home.

Ms. Sharab Bogan made the following comments:

- The project is too big.
- It will look like an office building.
- The rear of the house is drawn incorrectly as far as the line of the house.
- They would be looking into her master bedroom and master bath.
- She would lose privacy in those two rooms and her deck.
- She was concerned about parking during construction.

Mr. Rick Hamer made the following comments:

- The project is too large and it should be downsized.
- Every parameter that can be stretched is stretched to the limit.
- There is a lot of material being excavated.

Mr. David Ritter made the following comments:

- The assertion that he knows somebody on the Commission is false.

Acting Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She is torn between the neighborhood concern about the size, which she agrees with, but at the same time appreciates the fact that the existing footprint has been used.
- She appreciates that the applicant has reached out to the neighbors.
- Her focus in evaluating the project has been the Design Review Ordinance, Chapter 17.020.040 Design Review Criteria. There is reason to be concerned about height and the harmonious visual relationship of the structure and addition to the neighborhood.

Commissioner Frago provided the following comments:

- Her major concern at the last meeting was the issues surrounding the sewer line. This is no longer an issue.
- This is currently a 1,510 square-foot, two-story property, 20'10" tall, with three-bedrooms, and two-bath. It is being converted into a 2,800 square foot property, not a 3,800 square foot property.
- The earth that needs to be removed is to repair the foundation and to create a two-car garage with tandem parking behind it.
- The house is in terrible condition. Infrastructure improvements need to be made.
- The project is completely within the development footprint of the existing building.
- She has difficulty finding reasons to deny a project that meets every single code requirement.

Commissioner Clark provided the following comments:

- The project does seem large but it is not the Town's business to question what family members will make up a household.
- The review by staff was thoughtful.
- She sees nothing that contradicts the Zoning Code.
- She could support the application.

Acting Chair Swift provided the following comments:

- This is a small lot on a slope. The plans were done to fit the existing footprint. No variances are required.
- The project improves the parking for the site and the neighborhood.
- She asked if the applicant would be willing to change the back side addition windows facing 10 Walsh Lane to provide more privacy. Ms. Kehrlein stated part of the windows were clerestory. The others could be made shorter. There are two large Oak trees between the two properties and they are proposing more vegetative screening.
- She asked about protections for the private road during and after the construction process.
- The existing house was in disrepair.
- She is supportive of the application in general.

Commissioner Newton provided the following comments:

- She wants to make sure they are meeting the Design Review Criteria in their decision making.
- Section 17.020.040 (H) requires them to consider the extent to which the structure conforms to the character of other structures in the vicinity.
- They need to look at character and design harmony while acknowledging the need for diversity.

Ms. Kehrlein made the following comments:

- The houses are an eclectic mix.
- The design of the addition over the garage mimics the existing roof.
- There is a house on the cul-de-sac that has a similar design.
- They chose muted colors so they would not stand out.

Commissioner Newton provided the following comments:

- She is frustrated the Town does not have a separate Design Review Board.
- She is struggling with how the project could be modified.
- She would like it to reflect the size of the other residences in the immediate vicinity.

Acting Chair Swift provided the following comment:

- She asked if staff could review changes in the windows. Planning Director Berto suggested a condition that the lower sill is a minimum of six feet above finished floor or the use obscure glass. Ms. Kehrlein stated she would like some flexibility with not having to do the six foot sill and suggested a four foot sill.

Commissioner Fragoso provided the following comments:

- There are so many trees around the subject house.
- She cannot imagine them being able to look into the neighbor's windows.
- If there is a problem then they can work out some kind of window covering or other option.

Chair Swift provided the following comments:

- She asked how the private road issue would be addressed during the construction phase. Principal Planner Neal suggested the following change in the resolution: Condition 2 (b) shall read: "The applicant shall...on the public *and private* construction delivery...".

Commissioner Newton provided the following comments:

- She referred to the resolution and suggested the following change: Condition 2 (a) shall read: "Submit a construction plan... but *need not be* limited to..."; 2 (c) shall read: "Submit a cash deposit...to public *or private* roadways *including emergency damage.*"; 2 (g) shall read: "*The applicant shall* submit 3 copies..."

Chair Swift provided the following comments:

- She referred to the resolution and stated the second "Whereas" should reflect the hearing date of September 17, 2020.
- She referred to the resolution, page 6, Condition #8, and suggested the following change: "Any damages to the public *and private* portions..."
- She referred to the resolution and stated there should be a condition that the construction employees carpool to the site.

Planning Director Berto suggested the following condition: "The new south elevation windows shall have a minimum plate height no less than the existing larger windows on the second floor". Ms. Kehrlein stated that was reasonable.

M/s, Fragoso/Clark, motion to adopt Resolution No. 2020-08 with the following modifications:

- 1) Condition 2 (b) shall read: "The applicant shall...on the public *and private* construction delivery..."
- 2) Condition 2 (a) shall read: "Submit a construction plan... but *need not be* limited to..."; 3) Condition 2 (c) shall read: "Submit a cash deposit...to public *or private* roadways *including emergency damage.*"; 4) Condition 2 (g) shall read: "*The applicant shall* submit 3 copies..."; 5) the second "Whereas" should reflect the hearing date of September 17, 2020; 6) on page 6, Condition #8, shall read: "Any damages to the public *and private* portions; 7) There should be a condition that the employees carpool to the site; 8) The new south elevation windows shall have a minimum plate height no less than the existing larger windows on the second floor.

AYES: Clark, Fragoso, Acting Chair Swift

NOES: Newton

ABSENT: Gonzalez-Parber, Chair Green

RECUSED: Rodriguez

(Through a roll call vote).

Acting Chair Swift stated there was a 10-day appeal period.

The Commission took a 5-minute break at 9:25 p.m.

Acting Chair Rodriguez returned to the meeting.

2. Consideration of digitized/georeferenced Zoning Chapter 17.060 Ridgeline Development Visual Resources Map

Planning Director Berto presented the staff report.

Commissioner Fragoso stated she liked the idea of having different maps that show different qualities. She liked the idea of using the "georeferenced" title on one of the maps. However, she has no idea where these points are in reality and asked staff to provide some type of overlay. She asked staff to continue to move forward. Planning Director Berto stated including street names and major landmarks will help clarify these questions.

Commissioner Swift stated the staff report states that a major ridge is not shown on the Visual Resources Map and the Surface Hydrology Map shows only two major ridges. The Ridgeline Development Ordinance has a definition of major ridgelines as "those areas located on the Visual Resources Map". The major ridgelines are identified on the Visual Resources Map. This inconsistency is confusing. Planning Director Berto stated staff is looking for direction. Staff has developed some draft maps that shows what happens when they use the 100 foot vertical distance. Staff could come back with a map that shows what happens if they consider all of those ridgelines as major ridgelines and what happens with the 100 foot vertical.

Commissioner Newton agreed with Commissioner Swift. She cited the definition in Chapter 17.060.020. Those are the major ridges both within and outside of the Town boundary including the Planning Area Ridges. The ridgeline is the upper most line in elevation traversing a major ridge (the red line in the middle of the green area). All of the green area is major ridge. She does not understand horizontal, vertical, parallel distances- this is confusing. She agreed with Commissioner Fragoso that it would be helpful to see a street overlay. She is not sure she is prepared to answer the questions posed in the staff report. Planning Director Berto stated staff could come back with filling in the 150 foot horizontal distance and the 100 foot vertical distance with the caveat that no ridgeline scenic corridor would end up the flatlands.

Acting Chair Rodriguez stated she wanted to make sure the definitions were clear and consider some of the other language on the Visual Resources Map. Some jurisdictions have Class I ridgelines and secondary ridgelines. She stated they need to look at this as a cross-section as well.

Commissioner Swift stated she did not understand why the blue area was further out from the 150 feet horizontal. Planning Director Berto stated the 150 foot horizontal is a set distance the blue represents the various sub ridges or finger ridges. Acting Chair Rodriguez noted some jurisdictions have a Class II ridge or a "spine" that comes off of the Class I or primary ridge.

Acting Chair Rodriguez opened the Public Hearing.

Mr. Frank Egger, Meadow Way, stated the Town is currently processing a controversial subdivision project. The Ridgeline Scenic Corridor includes the ridgeline running up from Marinda Drive to the top of the northwesterly boundary of the Wall property. The other ridgeline runs from the top of Jolly Hill (above St. Rita Church) in a northeast direction above Marinda Oaks and the Ridgeway/Willow neighborhoods to Teresa and Oak Springs in San Anselmo. He is concerned that the Ridgeline Scenic Corridor Map is being modified and may benefit the Marinda Heights (a.k.a. Wall property) development proposal.

Acting Chair Rodriguez closed the Public Hearing.

Planning Director Berto stated the feedback was helpful.

Minutes

3. Minutes from the August 20, 2020 Commission meetings.

M/s, Swift/Fragoso, motion to approve the August 20, 2020 minutes as submitted.

AYES: Clark, Fragoso, Newton, Swift, Acting Chair Rodriguez
ABSENT: Gonzalez-Parber, Chair Green

Commission Discussion Item

4. Town's Business Recovery Programs

Acting Chair Rodriguez thanked Planning Director Berto for the information about the Urgency Ordinance that allows the issuance of Temporary Outdoor Use Permits as well as Encroachment Permits.

Planning Director's Report

Planning Director Berto reported the Town Council upheld the Planning Commission's decision and denied the appeal for The Lodge. Principal Planner Neal stated the Council modified some of the conditions including restoring Table #7 and the two small tables on either side of the driveway.

Commissioner Comments and Requests

Commissioner Swift had a question about the Temporary Use Permit granted for 60 Pastori Avenue.

Commissioner Swift reported that Fire Safe Marin and the Marin Wildfire Protection Agency (MWPA) will be funding a pilot project to provide about 1,000 NOA radios in the county. They will be placed where they can be used in areas with no to poor cell phone service that can be use in the event of emergencies.

Commissioner Newton supported the recommendation to hold a Town Hall meeting that would allow a conversation between the public and the Council and Commission about issues of concern.

Commissioner Newton asked staff to follow up on the Wall property concerns expressed during Open Time.

Acting Chair Rodriguez stated she was interested in the Ms. Benson's comments about Bay trees. She agreed with Commission Newton's suggestion about holding Town Hall meetings, maybe twice a year. Planning Director Berto stated he would bring this idea to the Town Manager's attention.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:21 p.m. in honor of Ms. Connie Berto, the founding member of the Marin Horse Council.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, AUGUST 20, 2020

Call to Order/Roll Call:

Chair Green called the meeting to order at 7:00 p.m.

Commissioners Present: Shelley Clark
Norma Fragoso
Esther Gonzalez-Parber
Philip Green (Chair)
Mimi Newton
Michele Rodriguez
Cindy Swift

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Kara Spencer, Assistant Planner

Planning Director Berto stated individuals wishing to address the Commission should use the "raise your hand" function. The Commission will be flexible in terms of allowing individuals to speak.

APPROVAL OF AGENDA

M/s, Fragoso/Newton, motion to approve the agenda.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green
(Through a roll call vote).

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 131 Canyon Road; Application #20-7
Request for Hill Area Residential Development, Design Review, Tree Removal,
Excavation, Encroachment Permits and a Retaining Wall Height Variance for a 6 ft. 6 in.
driveway wall to construct a 1,230 square-foot, 2 bedroom, 1 ½ bathroom, single-family
residence with an attached 1 car carport; Assessor's Parcel No. 003-032-16; RS-6 Single-
family Residential Zone; Vlad and Paula Iojica, applicants/owners; CEQA categorically
exempt per Section 15303(a).**

Principal Planner Neal presented the staff report. She noted Resolution No. 2020-07 should include the following change: the title should read 131 *Canyon Road*.

Commissioner Newton asked if staff received an email from Jean Irving. Principal Planner Neal stated it was included in the previous packet. Commissioner Newton stated she wanted to make sure all public correspondence was received by the Commission and the public.

Principal Planner Neal stated staff received a letter from Ms. Kim Bergraff the day of the meeting in opposition to the project and expressing concern about the condition of the road.

Commissioner Rodriguez referred to the right-of-way issue and whether staff received any feedback from the Public Works Department about plans for future roadway repairs or any bridge limitations. Principal Planner Neal stated they have plans for repairs at certain portions of the road that are going through the Joint Agency Permitting Process. It is in the budget.

Commissioner Newton referred to page 11 of the staff report, the last paragraph, and stated it should refer to Canyon Road (not Bay Road).

Commissioner Rodriguez asked staff for a summary about what is happening with the trees. Principal Planner Neal summarized what was written in the staff report. Commissioner Rodriguez asked if more trees were removed than what was originally approved by the Tree Committee or per the direction of the Fire Department. Principal Planner Neal stated "yes".

Commissioner Rodriguez asked staff to clarify what is being proposed for the public right-of-way that might normally be seen on private property. Principal Planner Neal stated the Commission can approve structures in the public right-of-way such as the proposed gabion wall being proposed to create a fire truck pull out per Ross Valley Fire conditions and the walls on either side of the driveway.

Commissioner Rodriguez asked about the proposed materials and colors since the color board and plans were different. Principal Planner Neal clarified that the color shown on the newest set of plans for the upper floor siding refers to "iron clad" as the proposed color.

Commissioner Newton referred to Resolution No. 2020-07, page 2, #4 and asked about the reference to an accessory dwelling unit. Principal Planner Neal stated that reference should be deleted.

Chair Green referred to page 6 of the staff report, second paragraph, and had a question about the height of the proposed retaining walls and the parking. Principal Planner Neal referred to Sheet C2.1 which calls out the top of the walls and the wall heights.

Chair Green opened the Public Hearing.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He and his wife plan to live in the home. They purchased the property in 2013.
- It was not his intention to start on the wrong foot with respect to the trees.
- He was sure they were supposed to take action and clean the site per the Tree Committee and Fire Department.
- He wants to save the Oak in the northeast corner of the property so they redesigned the parking.
- They are minimizing the heights and foundations for the retaining walls along the parking perimeter to lessen the impact to the root systems of the trees.

Chair Green asked Mr. Iojica if he was aware he had to have the Building Permit in place prior to cutting the trees in 2017. Mr. Iojica stated "yes"- they did no additional cutting after obtaining the permit. There was a second Tree Committee Meeting. He has a document from the Tree Committee indicating it is a "permit with an expiration date".

Chair Green referred to page 6 of the staff report, the fifth paragraph, and asked about the suggestion to replace the gabion wall.

Mr. Rich Rushton, architect, made the following comments:

- A gabion wall would be better looking than an I-beam and wood lagging wall.
- They are structurally equivalent.

Commissioner Rodriguez asked about the staff recommendation for setting the second story back five feet and how the height of the structure relates to the two adjoining properties. She had a question about the roofing materials- weathered wood as indicated on the plans or brown stone as indicated on the color board. She asked if the applicant plans on hiring a project manager or if he would do that work himself.

Mr. Rich Rushton, architect, made the following comments:

- The cover letter explains the change in the color and materials.
- The color board should govern.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- The closest building is about eight feet from the proposed footprint. It is a detached garage.
- He will hire a construction manager.
- They have looked at the option of setting the second story back five feet.
- Extending the southeast corner of the house towards the back would push the exterior wall towards the rock outcropping and minimize the amount of natural light to the master bedroom.
- It would create additional grading and off-haul from the site.
- The proposed design, with all three stories stacked upon each other, minimizes grading on the site.

Chair Green stated the neighbors have expressed concern about the condition of the roadway and the use of heavy equipment. He asked Mr. Iojica if he would agree to a bond to repair damage to the road.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He studied the road and agreed with the neighbors concerns about the condition.
- The critical section is past his property.
- Garbage disposal trucks are heavier than the vehicles that will be involved with his project.
- He would agree to a bond- this is a common practice.

Commissioner Gonzalez-Parber asked Mr. Iojica if he has implemented any erosion control measures subsequent to cutting the trees. She asked if a geotechnical engineer assessed the stability of the area where the trees were removed. She asked when they plan to start construction.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He plans to implement erosion control measures prior to the rainy season.
- He had a geotech on site last week performing borings who prepared a letter that was in the packet.
- They plan to start construction next April.

Commissioner Gonzalez-Parber asked if the Fire Department could call out any measures that need to be taken during construction with respect to the stability of the road. Principal Planner Neal stated that would be the responsibility of the Town Engineer and the Public Works Department.

Commissioner Newton asked Mr. Iojica if he would consider pushing the top story back five feet or using some other form of articulation to minimize the mass. Mr. Iojica stated they did look at that and decided to put in the triangle deck along with a vegetation buffer.

Ms. Martha Ture, Canyon Road, made the following comments:

- She lives west of the proposal near the end of the road.
- There are three more trees flagged on the property.
- Tonight is the first she has heard about any proposed road closure. This would pose a risk to the residents on Canyon Road.
- She is concerned about safety issues that increase fire or road hazards to the rest of the residents.
- This is a steep hillside with slides.

Planning Director Berto stated staff does not anticipate a road closure that would occur over any extended period of time. There are often temporary road closures associated with construction. The residents would get notice. Principal Planner Neal stated these are temporary closures that allow vehicles to maneuver in and out.

Ms. Debra Benson, representing the Tree Committee, made the following comments:

- A citation was issued on June 26, 2017 charging \$1,000 per tree for 14 trees that were removed without approval.
- The applicant was given the choice of going before the Tree Committee, after the fact, to get approval or pay the \$14,000.
- The application mentions 11 trees.
- In February of this year the Tree Committee looked at an application to remove 15 trees. They identified and compared the trees on the map. She has since gone to the property and counted nine new stumps including an Oak.
- The Tree Committee does not have the authority to give a "contradictory permit".

Paula made the following comment:

- She is the co-applicant and thanked the Commission for reviewing the application.

Chair Green closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- She is not in favor of changing the gabion wall or setting back the second story.
- A seven-foot wide deck, which would be the only outdoor space, does not seem big enough.
- She liked the triangular deck and stated it was an excellent use on the property and would break up the mass.
- This is a modest structure that is set back and will not be intrusive.
- The front facing windows on the second floor would provide the needed light.

Commissioner Gonzalez-Parber provided the following comments:

- She likes the project. It is very modest.
- She normally does not like triangular, sharp angles but in this case it follows the line of the road. She wondered if the angle could be softened.
- This is such a lovely site and she thought the site could accommodate a bit more living space square footage.
- Pushing the second floor back would not work.
- She wondered if they would consider adding some trellises as a way to break up the plane of the front wall and articulate that continuous façade. Mr. Rushton stated he was trying to create a strong contrast between the upper and middle floor by a change in the materials. The window

composition creates a strong horizontal element for the middle floor. He did not see any reason or function for a trellis but he would agree to it. They could add some sort of overhand using steel and Plexiglas (non-combustible) to act as a shelter over the entry.

- This is a nice project and she loves the site.
- She would like to see some trees planted in the front to soften that façade.

Commissioner Swift provided the following comments:

- She is not in favor of stepping the upper level back which would result in a large retaining wall and more off-haul.
- This is a small building on a steep lot.
- The design, with the color changes, was fine.
- She is in favor of changing the gabion wall to the I-beam or CMU option. This would be a better look and fit in with the neighborhood.
- She referred to the redesign of the driveway and walls to save tree #52 and stated the Vegetation Management Plan might need to go back to the Fire Department.
- Creating the fire truck turn-out and widening the road will make the road safer.
- She suggested some modifications to the Notice of Tree Committee Action for permits that are reviewed by the Commission.
- She is in favor of the project.

Chair Green provided the following comments:

- He would like to see all the trees replaced that were removed.
- The project is great overall.
- He likes the size of the project- it is modest.
- The 3 stories stacked one on top of the other does add to the massing of the structure but the color change will help.
- He is glad they are keeping the Oak tree.
- He urged the applicant to plant as many trees as possible.
- He referred to Resolution No. 2020-07 and wanted to add the following conditions: 1) The applicant will be ready to make emergent repairs as necessary if equipment causes a problem with the road; 2) Road closures must not exceed ten minutes for every half hour.
- He referred to the resolution, page 5, Condition #4, and suggested the following additional language: "Submit a cash deposit.....of possible *emergency* damage to the public roadways".
- The gabion wall was not a bad idea. He is not going to second guess it.
- He could approve the project.

Commissioner Newton provided the following comments:

- She likes the application- the modest size and the good design.
- She is disturbed by the applicant's moving ahead with the tree removal without waiting for the appropriate time period and the proper sequence.
- She appreciated the revised plan to save the Oak tree.
- She is not tied to pushing the top floor back. She understood the need for more light in that area.
- The back deck and patio area will be really nice.
- She is concerned about sharing that road during construction.
- She referred to the resolution, page 1, and stated the address in the title should be 131 *Canyon* Road, the first paragraph should include the applicants names; on page 2, #3 a) should be deleted, in #4, the reference to an accessory dwelling unit should be deleted; on page 3, Condition #9, numbers 10 through 17 should be letters (a through h) and then the subsequent conditions shall be renumbered (#22 will become #10, etc.); on page 4, #23 (which will become #11) should read, "The proposed retaining walls....are necessary *for the* construction of the...."; on page 5, condition #2, the "may" should be replaced with "must", (e) shall be added saying

"Provisions to address potential temporary road closure"; on page 6, Condition #8, the word "shall" should be added; on page 10, Condition #37 should spell out "Vegetation Management Plan"; on page 11, Condition #51 should read "Road closure... *and shall be in accordance with the approved construction plan*".

- Any reference to stepping the third floor back five feet should be deleted from the resolution.
- She was not sure how enforcement of a Vegetation Management Plan "for the life of the property" would be enforced.

Commissioner Gonzalez Parber provided the following comments:

- She asked about the extent of the proposed gabion wall. Principal Planner Neal stated it runs along almost the entire frontage except in the area where the driveway would be constructed.

M/s, Fragoso/Gonzalez-Parber, motion to adopt Resolution No. 2020-07 with the following modifications: 1) The gabion wall shall remain; 2) The five foot setback of the second floor is not included; 3) The proposed trellis is not included; 4) The requirement for emergency road repair shall be included in Condition #4; 5) The retaining wall heights would not be required to change; 6) The Vegetation Management Plan should include an erosion control/prevention plan and implementation of appropriate measures that would preclude an erosion during the winter due to the removal of the trees and shall be submitted prior to the start of the rainy season for review and approval by the Town Manager and the Public Works Department; 7) Road closures shall be appropriately noticed; 8) There shall be a deed restriction stating the gabion wall maintenance is the responsibility of the owner; 9) All the corrections and modifications made by Commissioner Newton.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Chair Green

NOES: Rodriguez, Swift
(Through a roll call vote).

Commissioner Swift stated she voted "no" because she would like to see another option to the gabion wall.

Commissioner Rodriguez stated she voted "no" because she supported a number of the staff recommendations.

Chair Green stated there was a 10-day appeal period.

2. 6 Walsh Lane; Application #20-8

Request for Hill Area Residential Development, Design Review, Tree Removal, and Excavation permits for a 50 percent remodel of an existing 1510 square foot, 3 bedroom, 2 bathroom, single-family residence and a 2 story addition to construct a 2,867 square foot, 5 bedroom, 4 bathroom single-family residence with an attached 2 car garage; Assessor's Parcel No. 003-192-20; RS-6 Single-family Residential Zone; Laura Kehrlein, applicant; Irene Pan Panagoulis Survivor's Trust owner; CEQA categorically exempt per Section 15301(e)(2)(A).

Commissioner Rodriguez stated she would recuse herself from this item since she lives within 500 feet of the subject property.

Commissioner Fragoso stated the Commission was considering a continuance and she asked if they needed to hear the staff report. Principle Planner Neal stated past practice has included the presentation of a staff report and public testimony.

Assistant Planner Spencer presented the staff report. She noted the Planning Commission will need to act on the Tree Removal Permit since the Tree Committee has not been meeting due to the pandemic.

Commissioner Newton stated the Commission received correspondence from the Town Attorney and she asked staff if they are recommending a continuation to allow the Ross Valley Sanitary District to answer questions about the sewer lateral. Planning Director Berto stated he would like to get a consensus from the Commission on that topic. It would be helpful to hear public comments and for the Commission to discuss other aspects of the project.

Chair Green stated the letter from Mr. Neal Sorenson, the applicant's attorney, mentions a case that does not seem applicable to this situation. The case has to do with public access to a beach. He would like to continue the item to allow the Town Attorney to respond to Mr. Sorenson's letter.

Chair Green opened the Public Hearing.

Ms. Laura Kehrlein, architect, made the following comments:

- Mr. Sorenson is not available tonight but he is of the opinion that the case has to do with a prescriptive easement. Planning Director Berto stated this is a topic that cannot be discussed by staff tonight. It is being handled by the Town Attorney.
- The property was purchased last year. It was neglected and had deficiencies including a crumbling foundation, rain flowing into the basement, an unsafe electrical system, and almost non-existent parking on the site.
- They want to obtain a Building Permit and remodel before the rainy season.
- The application was stalled due to the Shelter in Place Order.
- The design was triggered by the need to create a garage.
- The proposed garage is nestled against the home and respects the 15-foot side yard setback to 10 Walsh Lane. The garage is angled to stay out of the required, minimum, side setback.
- A master bedroom addition is placed over the new garage.
- There is no additional grading along this side of the driveway.
- The shed butterfly roof design was chosen as the best fit for the existing home. The roof has a 3:12 slope allowing for composition roof shingles.
- They were required to upgrade the sewer as a part of the resale of the house. It currently meets all the standards.
- The majority of the new floor area is within the existing building footprint.
- The project meets the requirements for setback, floor area, lot coverage, height limit, and parking.

Commissioner Gonzalez-Parber asked Ms. Kehrlein if the existing lot coverage was 33% and the proposed is 30%. Mr. Kehrlein stated those were the numbers she came up with. Commissioner Gonzalez-Parber asked if the garage was included as part of the calculation. Ms. Kehrlein stated "no, it does not meet the minimum size." Principal Planner Neal stated garages count towards lot coverage but not towards the floor area ratio (FAR) if they are 500 square feet or less.

Commissioner Gonzalez-Parber stated they were over the combined side yard setback by six inches and she asked Ms. Kehrlein to point out where that is occurring. Assistant Planner Spencer stated that was an error in the staff report- it does conform.

Commissioner Frago asked Ms. Kehrlein about the upgrades the current owner did to the sewer system.

David, owner's representative, made the following comments:

- The sale of the home triggered the 90-day requirement to upgrade the sewer lateral. This is the first thing that was done.
- The construction company ran a new pipe through the system and the Ross Valley Sanitary District signed off on the whole network. They are completely compliant with the Ross Valley Sanitary District requirements.

Commissioner Fragoso asked if the sewer line was allowed to be day lighted (sitting on top of the earth rather than underground). Ms. Kehrlein stated she did not know but this system was inspected and approved by the district.

Thea made the following comments:

- Walsh Lane is a charming area.
- The project is out of line with the character of the area.
- This is a monster of a building- five bedrooms and four bathrooms. The lot cannot accommodate such a large building.
- She is concerned about the extra cars.
- She was concerned about fire danger and water shortages.

Mr. Juan Carlos made the following comment:

- The project will destroy the quality of life in the Walsh Lane neighborhood in order to make money.

Mr. Morgan Hall made the following comments:

- He lives next door to the subject property.
- He is concerned about the sewer. He was asked by the property owners if they could do a dye test to see if the sewer at 10 Walsh Lane tied into the sewer at 6 Walsh Lane. He decided not to allow them do the test.
- The lateral installed for the subject property is totally illegal. There is no documentation, permits, agreements, easement, inspections, or approvals. The sanitary district does have a sketch.
- They have no access to the sewer at the rear and running a sewer out the front would be difficult.
- He was concerned that this is a spec house.

Ms. Sharab Bogan made the following comments:

- She lives next door to the subject property.
- She is concerned about Walsh Lane (dead end) being blocked by trucks.
- This project should not be allowed to start during the fire season.
- The project is obviously planned to be two units.
- There is a minimal amount of parking on Walsh Lane.

Mr. Christof Bessler made the following comments:

- He lives across from the project.
- The project will start a process and set precedent for much larger homes that will change the character of the neighborhood.
- The project is out of character with the neighborhood. It is huge.
- He welcomed the improvements to the existing house.

Mr. Mike Frye, Manzanita Road, made the following comments:

- Principal Planner Neal read a letter and displayed the attachments from Ann Frye. The letter discussed her opposition to the project. The new roofline would significantly impact the view from her living room and bedroom facing south. The project is too large for Walsh Lane.
- The roof should be redesigned to minimize the blockage.

Ms. Barbara Cassidy, Walsh Lane, made the following comments:

- This is a small, quaint neighborhood.
- She is concerned about the overall size of the project. It is too tall and does not fit in with the character of the neighborhood.
- Walsh Lane is not maintained by the Town.

- There will be an increase in traffic due to the size of the house.
- There will not be enough off-street parking to accommodate five-bedrooms.
- She is concerned this is a spec house and that it does not support the needs of the community.

Chair Green closed the Public Hearing.

Commissioner Newton provided the following comments:

- She wondered if the applicant would agree to a continuance.
- She would like to get more information from the Ross Valley Sanitary District about the sewer.

Commissioner Fragoso provided the following comments:

- She understood that a sewer line was a private matter between the property owners.
- This is such a large project and there is some question about the legal conformity of the sewer lateral.
- Given the lack of information in the records, the neighborhood concerns, the extent and nature of the improvements, she cannot make approval findings for the project. This is an extensive amount of work.
- She has no concerns with the design.
- They should not move forward on a project of this nature without getting more information as to the ownership and clarification of who is responsible for the sewer lateral that transverses three properties. The Town Attorney should have an opportunity to opine in this matter.

Chair Green provided the following comments:

- There is no need to discuss the condition of the sewer lines.
- The letter from the owner's attorney should be addressed by the Town Attorney.
- He is not concerned about the economic aspect- people buy and sell houses.
- He does have some basic questions about the design (height, etc.).
- They are taking a ridiculously dilapidated building and improving it immensely.
- He supported a continuance.

Assistant Planner Spencer referred to the Permit Streamline Act and stated the application could be continued to the September 17th meeting.

M/s, Newton/Fragoso, motion to continue Application #20-8, 6 Walsh Lane, to the next meeting and ask staff to pursue two specific issues- the easement issue and further clarification on the sewer lateral.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Swift, Chair Green

RECUSED: Rodriguez

(Through a roll call vote).

Commissioner Rodriguez returned to the meeting.

- 3 1620 Sir Francis Drake Boulevard; Application #20-9**
Request for a Use Permit and Design Review permit to convert an existing 1,573 square foot, 2 story commercial building into a residential duplex; Assessor's Parcel No. 001-235-11; Highway Commercial CH Zone; Joyce and Arthur Chartock, applicant/owners; CEQA Categorically exempt per Section 15301(a) and 15303(e).

Principle Planner Neal presented the staff report.

Commissioner Newton stated there were a number of reasons to be concerned about putting residential uses in the Highway Commercial (CH) Zone. She asked staff about the "big picture". Principal Planner Neal stated the General Plan includes direction that the Highway Commercial

Zones in Town should be rezoned Central Commercial (CC) Zone which allows by right residential uses in the upper floors. The General Plan envisioned changing the zoning of project site and surrounding parcels to CC. Commissioner Newton asked if the Commission would be prohibited from allowing residential on both floors. Principal Planner Neal stated not as long as they could make the findings.

Commissioner Rodriguez stated although this property is zoned Highway Commercial it has historically been used as office space. She asked if the Chamber of Commerce provided any feedback. Principal Planner Neal stated she did not hear from them. Commissioner Rodriguez stated this property is outside of the Town Center boundary and classic retail. Principal Planner Neal stated the General Plan includes it as part of the Town Center. Commissioner Rodriguez referred to the Housing Element and asked if this property was cited as an "opportunity site". Principal Planner Neal stated "no". She reiterated that the General Plan envisioned rezoning this area as Central Commercial which would allow residential uses on the second floor by right.

Chair Green had questions about the code section that allows residential uses on the second floor in the Central Commercial Zone. They need to be cognizant of setting a precedent.

Chair Green opened the Public Hearing.

Mr. Art Chartock, applicant, made the following comments:

- This idea came about because they had the building for sale for a while and buyers were interested in a residential component.
- He read a statement about the need for housing in Fairfax.
- The proposal is for two, small, live/work, one-bedroom units.
- They do not want the Commission to consider a living unit on the upper floor and a commercial use on the lower floor.
- Staff is concerned about setting a precedent but there are residential uses on the first floor in this area.
- This is a unique location- times and needs are changing.
- They have no problem changing the four-foot fence to horizontal siding and eliminating the arbor.

Commissioner Newton asked Mr. Chartock if he would be willing to limit the rents to something affordable if the Commission agreed to the duplex idea. Mr. Chartock stated they are not proposing subsidized units.

Chair Green asked about the units to the left and right that were residential. Principal Planner Neal stated the duplex to the west is in the residential zone and the units to the east were legal, nonconforming and predate the Highway Commercial Zoning.

Mr. Rich Hamer made the following comments:

- The ground floor unit could be rented as a generic AirBNB or Bed and Breakfast and allowed as a Conditional Use for the CH Zone.
- Fairfax does not have a short-term rental ordinance.
- He discussed the 30-day rule and State Tenancy Laws.

Chair Green closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- A live/work project is different than a conversion project with two residential units. Planning Director Berto agreed- the residential component should be subordinate to the commercial aspect in a live/work scenario. The applicant would have to submit a different application that

would be studied by staff including the square footage dedicated to commercial vs. residential, etc.

- She was concerned about the lack of an affordable housing component.

Commissioner Swift provided the following comments:

- She asked if live/work units are allowed in this zone. Principal Planner Neal stated if the Commission decided to allow live/work units there should be conditions that require these units to be similar to home occupations (no retail sale, clients coming to the unit, etc.).
- They could ask for a continuance to allow the applicant to talk to staff about a live/work situation vs. straight residential. Mr. Chartock stated he was envisioning “mostly residential” where someone could work at home on a computer.

Commissioner Newton provided the following comments:

- She adamantly supported anything that encouraged more housing units in downtown Fairfax close to transportation.
- She reminded everyone that most people were currently living and working from home.

Commissioner Fragoso provided the following comments:

- She agreed with Mr. Chartock’s comments about the need for more housing in this community.
- There is a blend of different types of uses downtown.
- This area is already filled with housing- some of them on both floors.
- Fairfax does not have an Inclusionary Housing Ordinance which is the only way to require affordability restrictions. The size of the units would dictate the rent.
- She did not encourage the applicant to go the “live/work route”.
- Making these AirBNB’s would not solve any problems.
- A duplex is the best solution. It is in keeping with the historic character in the downtown commercial district.
- Findings for a duplex could be made based on the Housing Element, the historic character, and the dire need for housing in the community.
- She appreciated the articulated gate since it adds character.

Commissioner Clark provided the following comments:

- She agreed with the comments made by Commissioners Newton and Fragoso.
- She would love to see two, small residential units.
- There are residential units on either side of the subject property.

Chair Green provided the following comments:

- He would love to see this as a duplex- it makes sense.
- He referred to the findings and stated they could avoid setting a precedent by including a statement that this is an unusual historic period, commercial uses are disfavored at the moment, and residential uses are highly in demand.
- He cited General Plan Goal LU 8: “Preserve community diversity through affordable housing opportunities”, and Goal H 3: “Create transit oriented housing in the Town center that is less dependent on automobile traffic”.
- He did not want to set a precedent.

Commissioner Newton provided the following comments:

- She supported Chair Green’s suggestion about identifying the current events in the findings and also include a variety of findings that limit the ability to use this decision as a precedent.
- The adjacent uses include ground floor residential and many of the uses in the area predate Zoning limitations.
- The General Plan does encourage infill development within the downtown.
- There is a dire need for housing.

Chair Green reopened the Public Hearing.

Robin, owner of 1616 Sir Francis Drake Boulevard, made the following comments:

- She supported the applicant's endeavor.
- The building is attractive.
- There are ways to obtain affordability without lowering the rents such as Section 8 vouchers.

Chair Green closed the Public Hearing.

Commissioner Swift provided the following comments:

- She is having trouble making findings for the duplex and in particular residential on the lower level.
- She did not support lowering the parking from six to four spaces. There is no on-street parking in that area.
- She supported making the top unit residential.

Planning Director Berto stated the Commission could recommend that the applicant apply for a General Plan Amendment to change the zoning for this property to Central Commercial. This would address any zoning consistency issues. Chair Green had questions about the time frame for this process. Planning Director Berto stated it would need to be approved by the Town Council.

Commissioner Fragoso provided the following comments:

- She asked staff if the Commission could issue a Use Permit for residential use on the first floor. Principal Planner Neal stated "yes" but staff was not able to make the findings for a duplex.
- The Commission could issue a Use Permit tonight and forgo the need for the General Plan Amendment

Commissioner Newton provided the following comments:

- She reiterated Housing Element Goal H 3 which encourages the creation of transit oriented housing.
- Some of the items in the list of allowable and prohibited uses in the CC and CH Zones are antiquated. Life is different today.
- The six vs. four parking spaces is not an issue.
- She agreed with Commissioner Fragoso- they could approve this tonight.

Principal Planner Neal stated this property abuts the residential zone on Willow Avenue and the applicant could apply for a zone change which might make more sense than changing the General Plan Designation. Planning Director Berto acknowledged there were unique circumstances to this property but he was uncomfortable about setting a precedent.

Chair Green asked Mr. Chartock if he would agree to a continuance of no more than 90 days in order to explore options. Mr. Chartock stated "yes".

M/s, Newton/Fragoso, motion to continue the application to a future meeting to a period not to exceed 90 days.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green
(Through a roll call vote).

The Commission took a break at 12:10 a.m.

4. Consideration of digitized/georeferenced Zoning Chapter 17.060 Ridgeline Development Visual Resources Map

Planning Director Berto presented the staff report.

Chair Green referred to the map that is displayed and stated he supported taking both maps into consideration and maximizing the ridgeline corridor area.

Commissioner Rodriguez asked if the red lines that indicating the boundary between watersheds was the highest elevation at that peak. Planning Director Berto stated "yes". Commissioner Rodriguez had a question about the primary and secondary ridges. She stated it was possible to come up with a design that could be placed below a ridgeline that would still encroach into the visually significant ridgeline areas. They need to start thinking about the minor vs. major ridges.

Commissioner Swift asked if there were any parcels that were thought to be in the corridor that fell out in the electronic version of the map. Planning Director Berto stated he did not think so. Commissioner Swift asked staff about the process for changing the General Plan so it reflects the name of the map that is contained in the Zoning Code. Planning Director Berto stated the Town Attorney is of the opinion that the most straightforward way to get a consistent name would be to amend the Zoning Ordinance. Commissioner Swift stated she would like to get information on the process for both.

Commissioner Newton agreed with Commissioner Swift that perhaps the most transparent approach would be to amend the General Plan and add the new map. She referred to the staff report, page 3, and stated she is not in favor of any of the three bullets under the Conclusions Section. She could live with something that is straightforward and would like to move forward with amending the Zoning Ordinance to refer to this map and give it its own name.

Commissioner Rodriguez stated neither a General Plan Amendment or Zoning Amendment is required- it is an administrative correction to an error. It requires a simple memo for the public record. Commissioner Fragoso agreed.

Chair Green stated the intent is to let applicants know how decisions are made.

Planning Director Berto stated he would come back with a finished form of this digitized georeferenced map and some recommendations at the next meeting.

5. Update on Objective Design and Development Standards (ODDS) and historic reconnaissance work

Planning Director Berto presented the staff report. Staff received a proposal from an architectural historian and staff is confident they will sign a contract very soon. The Historic Subcommittee will be involved in the execution of the contract. This will not be a deep dive into historical resources but rather an identification of areas in the downtown historic district and historic characteristics. This will feed directly into the ODDS place types.

Commissioner Rodriguez had questions about the scope of the work. Planning Director Berto stated they will be focusing on the central downtown area where multi-family development is permitted. It will provide objective development standards that will allow them to continue to have local review ability to guide housing development. They will be able to plug in the special history and elements reflected in the downtown building designs in to these standards.

Minutes

6. Minutes from the June 18, 2020 and July 16, 2020 Commission meetings.

M/s, Rodriguez/Swift, motion to approve the June 18, 2020 and July 16, 2020 minutes as corrected.
AYES: Clark, Fragoso, Gonzales-Parber, Newton, Rodriguez, Swift, Chair Green

Planning Director's Report

Planning Director Berto reported staff approved Temporary Use Permits for The Lodge, 31 Bolinas Road, 31A Bolinas Road, 12 School Street Plaza, and 60 Pastori Avenue. These permits are issued for a maximum of 120 days unless renewed. Staff has not received any adverse comments. He discussed the temporary Encroachment Permit process being used by the Town Manager.

Commissioner Comments and Requests

Commissioner Swift asked about the Housing Report and the Regional Housing Needs Assessment (RHNA) numbers. Planning Director Berto stated he would forward this information to the Commission.

Chair Green stated he would like signs posted at the entrance to Town saying: "Masks required- \$550 fine for violations". This is biological and not political or philosophical. Amen to that !

The Commission thanked Tamala for her fabulous Zoom work.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:57 a.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

RESOLUTION NO. 2020-08

A Resolution of the Fairfax Planning Commission Approving Application No. 20-08 for a Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits for a 50 Percent Remodel and Addition at 6 Walsh Lane

WHEREAS, the Town of Fairfax has received an application from the Irene Pan Panagoulis Survivor's Trust for an addition and 50% of remodel of single-family residence on December 19, 2019; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 17, 2020 at which time the Planning Commission determined that the project complies with the Hill Area Residential Development Overlay Ordinance, Excavation Ordinance, Design Review Regulations, and Tree 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 Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits; and

WHEREAS, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size and mass.

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.

Policy LU-4.1.4: New and renewed development shall be designed to minimize run-off in a manner that does not cause undue hardship on neighboring properties.

Hill Area Residential Development

The proposed development is consistent with the General Plan and the Residential Single-family RS 6 Zone regulations.

1. The site planning preserves identified natural features as much as possible while also complying with other agencies' regulations.
2. Vehicular access and parking are adequate.
3. The proposed development harmonizes with surrounding residential development and meets the design review criteria contained in Town Code § 17.020.040.

4. The approval of the Hill Area Residential Development permit for an addition and 50 percent remodel of a single-family residence on a 7,200 square foot parcel shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
5. 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 permit.
6. Approval of the proposed 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 Town.
7. Approval of the Hill Area Residential Development permit will result in equal or better development of the premises than would otherwise be the case.

Excavation Permit

8. The Town Engineers have reviewed the following plans and reports and have determined the project can be constructed, with certain conditions of approval, without creating any hazards:

Architectural plans Frederic C. Divine Associates revision date 8/12/20;
geotechnical report by Herzog Associates, dated 12/19/19; preliminary grading and drainage plan by Oberkamper and Associates, dated 12/18/19

9. Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:
10. The health safety and welfare of the public will not be adversely affected;
11. Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
12. Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
13. The amount of the excavation or fill proposed is not more than that required to allow the property owner substantial use of his or her property;
14. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;

15. Natural landscaping will not be removed by the project more than is necessary; and
16. Town Code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

Tree Permit

17. The alteration of the trees is necessary to protect the public health and safety and prevent damage to property (Town Code §8.36.060(B)(1)); and
18. Is necessary to allow the owner to reasonably develop and use the property (Town Code §8.36.060(B)(4)).

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

1. The project is approved per the following plans and documents: Frederic C. Divine Associates revision date 8/12/20, pages A1,1, 2, F1, F2, A2.0 through A2.3, A3.0 through A3.2, A4.0 and A4.1; the geotechnical report by Herzog Associates, dated 12/19/19, and the Tree Removal Application dated 5/5/20.
2. Prior to issuance of any of the building permits for the project the applicant or his assigns shall:
 - a. Submit a construction plan to the Public Works Department which may include but need not be limited to the following:
 - i. Construction delivery routes approved by the Department of Public Works.
 - ii. Construction schedule (deliveries, worker hours, etc.)
 - iii. Notification to area residents
 - iv. 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 and private 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 (including emergency damage) to public or private 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 Town Structural Engineer.
- 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 Geotechnical Engineer.
- f. 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.
- g. The Applicant shall submit 3 copies of the record of survey with the building permit plans.
- h. Prior to the removal of any trees not approved by the Planning Commission through this action, the applicant shall secure a tree cutting permit, if required, from the Fairfax Tree Committee prior to removal of any on-site trees subject to a permit under Town Code Chapter 8.36. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water and drainage) which incorporates the services of the project arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation or trenching operations. In particular, cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation and diversion dams. Any pruning shall take place during the winter when trees are dormant for deciduous species and during July to August for evergreen species.
- i. If deemed necessary by the Town Engineers, the applicants shall prepare a drainage system maintenance agreement including a recordable exhibit of the proposed drainage system in its entirety including a maintenance schedule to be approved by the Town Engineer. The maintenance agreement will have to be signed by the owner, notarized and recorded at the Marin County Recorder's office prior to issuance of the building permit.

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

- a. The geotechnical engineer shall be on-site during the grading process and shall submit written certification to Town Staff that the grading protection

measures have been completed as recommended prior to installation of foundation and/or retaining forms and drainage improvements, piers and supply lines.

- 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 Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.
 - c. The Building Official shall field check the concrete forms prior to the pour.
 - 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 closures 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.
 - f. A designated parking area shall be established for project personnel. All project personal shall park in the designated parking area and carpool to the project site to avoid wear and tear and blocking access to public and private routes in the vicinity of the project site. The designated parking area shall be reviewed and approved by the Building Official prior to the issuance of the building permit.
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 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 and Town Engineer shall field check the completed project to verify that all planning commission conditions and required engineering improvements 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 of any year. 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. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 20-8. Modifications that do not significantly change the project, the project design or the approved discretionary permits *may* be approved by the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 20-8 will result in the job being immediately stopped and red tagged.
8. Any damages to the public and/or private portions of Walsh, Manzanita, Frustuck, or other public or private roadway used to access the site resulting from construction-related activities shall be the responsibility of the property owner.
9. 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.
10. 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.

11. In accordance with Town Code §8.20.060(C)(1) and (2), the operation of any tools or equipment used in construction or demolition work or in property maintenance work between the hours of 6:00 PM and 8:00 AM Monday through Friday, or on weekends and holidays between 4:00 PM and 9:00 AM is prohibited.
12. Conditions placed upon the project by outside agencies or by the Town Engineer may be eliminated or amended with that agency's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.
13. The building permit plans shall be reviewed and approved by the Town Engineer, at the expense of the applicant, prior to issuance of the building permit. The project shall be inspected by the Town Engineer prior to issuance of the occupancy permit for the residential structures for compliance with the engineering plans.

Ross Valley Fire Department

14. Project has been deemed a "substantial remodel" and as such requires installation of a fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
15. The property is located within the Wildland Urban Interface Area for Fairfax and the new construction must comply with Chapter 7A of the California Building Code or equivalent.
16. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.
17. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
18. 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 must be placed in location that is visible from the street. The numbers must be internally illuminated or illuminated by an adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
19. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.

20. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
21. All vegetation and construction materials are to be maintained away from the residence during construction.

Marin Municipal Water District (MMWD)

22. A copy of the building permit must be provided to the district along with the required applications and fees.
23. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
24. Any landscaping plans subject to review by the Town of Fairfax or subject to a Town permit must be reviewed and approved by the District.
25. Backflow prevention requirements must be met.
26. Ordinance 429, requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town.
27. All of the District's rules and regulations if effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

28. The applicant shall submit plans to RVSD for review which show the following:
 - a. The location of the RVSD sewer main, exiting lateral, and point-of-connection for the proposed improvements.
 - b. The elevation of the lowest-habitable-floor in the structure (the basement) and the elevation of the nearest downstream sewer manhole on the RVSD mainline.
 - c. The location on of all exiting or proposed sewer cleanouts, check and/or backwater devices located outside the foundation of the proposed structures.
29. All new connections, remodels, additions, and improvements are subject to Sewer Capacity Charges and Permit Fees.

Miscellaneous

30. Any future tree removal, beyond the trees proposed for removal in the 5/5/2020 Tree Removal Application will require the review and approval of the Tree Committee and may also require review and approval with mitigation measures

of the geotechnical engineer if the tree removal may effect hillside stability below the structure at a future date.

31. South elevation windows shall not increase above the existing sill height.

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, Excavation Permit, Design Review Permit, and Tree Removal Permit are in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the 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 17th day of September 2020 by the following vote:

AYES: Clark, Fragoso, Swift
NOES: Newton
ABSENT: Green, Gonzalez-Parber
RECUSE: Rodriquez

/s/

Acting Chair Swift

Attest:

/s/

Ben Berto, Director of Planning and Building Services