

Draft Fairfax Town Council Minutes
Regular Meeting
Via teleconference due to COVID-19
Wednesday, **October 7, 2020**

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

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Bruce Ackerman
Barbara Coler
Renee Goddard
Stephanie Hellman
John Reed

STAFF MEMBERS PRESENT:

Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney
Ben Berto, Planning Director
Chris Morin, Police Chief

Approval of Meeting Agenda and Affidavit of Posting

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

Announcements

Mayor Goddard made the announcements as they appeared on the agenda. She acknowledged the work of Community Services Department employees Camille Esposito, Ann Mannes, and Maria Baird.

Open Time

Mr. Elias Karkabi discussed racism in Fairfax and expressed frustration with the land acknowledgement statement on the agenda.

Dr. Jody Timms, Fairfax representative to the Commission on Aging, gave a status report on various activities, including the regular Breakfast with Friends; the annual celebration for Fairfax residents over 90 years of age; and the Commission's work.

Mr. Walter Vernon, representing the Climate Action Committee, gave a status report.

Mr. John Romaidis disagreed with the comments of Mr. Karkabi. He addressed visibility at night of the outdoor dining parklets on the street, and suggested reflectors.

Michelle stated that the Tree Committee should review public trees that are slated for removal.

Ms. Florence Schneider opposed the County of Marin's public health orders.

Ms. Valerie Hood, representing Fairfax Tomorrow, disagreed with the comments made by Mr. Karkabi. She asked the Council to focus on local issues.

Ms. Veronica Geretz addressed the defacement of a Black Lives Matter piece of artwork.

Ms. Barbara McVeigh thanked the Council for endorsing the Jimmy Carter Jamboree Event in 2018. She supported getting a second opinion from an arborist before cutting down trees.

Mr. Rick Hamer stated climate change should be a consideration when reviewing building applications.

Ms. Deborah Benson, Cascade Drive, supported Mr. Hamer's comments. She urged the Council to put back the double yellow line on Cascade Drive.

Ms. Audrey Narlock stated the Fairfax is racist and calling it out matters. She stated paying Police Officers overtime was unnecessary.

Mr. Richard Applebaum wished Mr. Frank Egger a happy birthday.

Ms. Julia Ledyard asked the Council to adopt a resolution in support of the Golden Gate Village residents.

Ms. Jane Richardson stated she did not believe Fairfax was a racist community.

Mr. Tunafish Salin stated people get attached to the downtown art but it changes. He was concerned about ageism. Fairfax is not necessarily racist.

Mr. Brian Poindexter disagreed with the opinion that Fairfax is not racist. He noted intent is less important than effect.

Consent Calendar

1. Receive report on the issuance of lease revenue bonds to refinance unfunded pension obligations- Finance Director, Town Manager
2. Receive written report on Councilmember's assignments, committees, and activities in September- Town Clerk
3. Approve Town Council Meetings Minutes for July 1 (revised), July 15, and August 5- Town Clerk
4. Approve Amendment No. 8 to the master agreement with California Infrastructure Consultancy (CIC) to increase the contract amount by \$619,790 for additional design and ROW services for Meadow Way Bridge replacement project- Town Manager
5. Authorize the Town Manager to sign Amendment to extend Agreement for five years to provide dispatch services to the Town of Ross/Police Department- Chief of Police
6. Authorize Town Manager to contract, up to \$45,000, for tree services, per the recommendations of the Town Arborist report, to prune trees in the Parkade, Peri Park, Bolinas Park, and Doc Edgar Park and to remove upward of 12 dead or dying trees in the Bolinas/Peri Park area- Town Manager

7. Receive report on the Town's 2020 Chipper Days- Town Manager

M/S, Coler/Ackerman, Motion to remove item #6 from the Consent Calendar for discussion and take up the rest of the Consent Calendar after that.

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

6. Authorize Town Manager to contract, up to \$45,000, for tree services, per the recommendations of the Town Arborist report, to prune trees in the Parkade, Peri Park, Bolinas Park, and Doc Edgar Park and to remove upward of 12 dead or dying trees in the Bolinas/Peri Park area- Town Manager

Mr. Ray Moritz, Town Arborist with Urban Forestry, stated the qualifications of his company for tree risk assessment. They have inspected the Parkade and park trees since 2009. They recently inspected 538 trees and are recommending removal of eight trees, based on science.

Councilmember Coler confirmed if the recommendation was to remove the "priority one" trees, including tree #237. She confirmed the recommendation to also removal of some of the priority "two" or "three" trees at a later date after they are reviewed by the Tree Committee.

Councilmember Hellman asked if it was typical to get a second opinion. Mr. Moritz stated he does this type of work for public and private entities and he is often the second opinion, adding that a second opinion should only be done by a certified tree risk assessor.

Councilmember Reed confirmed the trees were tagged by staff, not Mr. Moritz's firm.

Town Manager Toy asked Mr. Moritz if his work has ever been peer reviewed. Mr. Moritz stated no, but he would not be opposed to it.

Mayor Goddard opened the meeting to public comments.

Ms. Lisa Hunt asked if this proposal had been reviewed by the Tree Committee. She supported getting a second opinion.

Ms. Deborah Benson, member of the Tree Committee, stated the Committee should review these trees. She supported a second opinion or more detailed report.

Mr. Peter Lacques stated public safety was important. Trees in public parks must have the risks weighed against the benefits.

Mr. John Romaidis, member of the Tree Committee, noted the Town Code Section requires an application to remove a tree except in the case of an emergency.

Mr. Tunafish Salin supported risk assessment was important, as trees do fall and hurt people.

Ms. Valerie Hood stated that using the words "imminent threat" in the report felt like a fear tactic.

Mr. Frank Egger, representing Save Fairfax, supported Tree Committee review before removal of Town trees. He was concerned about cutting of the redwood saplings in Peri Park.

Rebecca, Monte Vista Road, stated a tree on her property fell and almost killed her neighbor. She trusted the opinion of Mr. Moritz and did not recommend waiting.

Ms. Barbara McVeigh discussed the nature of Redwood trees and asked about the impact to the other Redwoods when one is removed.

Ms. Jane Richardson, member of the Tree Committee, stated trees should be reviewed by the Tree Committee. The tags could be color coded to indicate what action they are subject to.

Mr. Chance Cutrano supported the involving the Tree Committee in these decisions and color coding the tags.

Mr. Mark Bell stated the Town needed to maintain its trees.

Ms. Kathy Flores agreed with the comments of Ms. Hood and Ms. Benson.

Mayor Goddard closed the meeting to public comments.

Vice Mayor Ackerman asked how quickly the Tree Committee could meet to review the high priority (number one) trees, and whether they could hold a special meeting. Planning Director Berto stated the Tree Committee meets on the fourth Monday of the month and would check on this.

Councilmember Hellman asked whether staff could respond to the questions raised. Town Manager Toy stated he did not think trees #136 or #137 were slated for removal but they were pruned. A second opinion is not required to remove dead trees. He supported getting the Tree Committee involved but was concerned about waiting three weeks. He did not think it was necessary to get a second opinion on these trees.

Councilmember Coler asked staff to comment on Section 8.36.040 of the Tree Ordinance (Dead or Diseased Trees). Town Attorney Coleson stated there are two different sections of the ordinance: the emergency removal section and Section 8.36.040(b)(1) which allows the director to grant a ministerial permit to remove a dead or diseased tree. A ministerial permit granted by the director would not go before the Tree Committee. Section 8.36.120 pertains to an emergency removal by permission of the director, an officer of the Police, Fire, or Public Works Department, or any member of the Committee. An "emergency" is defined as an immediate or significant threat to life or property. Planning Director Berto stated there was no need to take the dead trees to the Tree Committee.

Councilmember Hellman asked about the maintenance of the trees. Town Manager Toy stated staff implements what is in the arborist's report.

Councilmember Coler stated she did not support different colored ribbons for tagging trees. She would like the Council to consider moving forward on the eight priority one trees and take the priority two and three trees to the Tree Committee for review.

Councilmember Reed stated trees should be tagged as soon as possible. He supported using color coded ribbons. He supported Councilmember Coler's suggestion on moving forward.

Councilmember Ackerman supported Councilmember Coler's suggestion.

Councilmember Hellman supported the Tree Committee reviewing the priority two and three trees at its next meeting and getting a second opinion and involving the Tree Committee when possible. She would like to see a process for more consistent maintenance.

Councilmember Coler suggested a yearly update during the Budget Hearings.

Mayor Goddard supported the priority one trees being removed immediately without a second opinion. She stated the Tree Committee should review the others.

M/S, Coler/Reed, Motion to authorize the Town Manager to contract up to \$45,000 for services to prune certain trees and/or remove trees marked priority "one" on the Proposed Tree Removal List, Attachment "A" in the supplement, per the recommendations of the Town Arborist report in the Parkade/Peri Park/Bolinas Park/Doc Edgar Park; trees that are marked priority "two" or "three" on Attachment "A" in the supplement shall go to the Tree Committee on October 26th; and any of the trees in the spreadsheet referred to as Attachment "C" that require some type of removal in the near future shall also be considered by the Tree Committee on October 26th or if not at that meeting at its subsequent meeting.

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

Consent Calendar

1. Receive report on the issuance of lease revenue bonds to refinance unfunded pension obligations- Finance Director, Town Manager
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3. Approve Town Council Meetings Minutes for July 1 (revised), July 15, and August 5- Town Clerk
4. Approve Amendment No. 8 to the master agreement with California Infrastructure Consultancy (CIC) to increase the contract amount by \$619,790 for additional design and ROW services for Meadow Way Bridge replacement project- Town Manager
5. Authorize the Town Manager to sign Amendment to extend Agreement for five years to provide dispatch services to the Town of Ross/Police Department- Chief of Police
7. Receive report on the Town's 2020 Chipper Days- Town Manager

Councilmember Coler made a clarification regarding the staff report for Item #1. Referring to Item #2, she added she had also participated in a SURJ Cohort training. Referring to Item #3, the August 5, 2020, Town Council minutes on pages 8 and 9 should be corrected to reflect \$60,000 as the total program amount.

Mr. Frank Egger referred to item #4 and addressed the added costs and the new consultant.

Jackie referred to item #5 and opposed extending the agreement before looking at alternatives.

Ms. Valerie Hood supported Police and Fire protection and had questions about the RESJ.

Mr. Elias Karkabi agreed with the comments made by Jackie. He stated there should be a reduction in the Police Department.

M/S, Coler/Ackerman, Motion to approve the Consent Calendar items #1 through #5 and #7, with the changes noted by Councilmember Coler to items #2 and #3.

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

The Council took a 5-minute break at 10:25 p.m.

The Mayor reviewed the agenda.

M/S, Coler/Ackerman, Motion to continue items #8 and #10 to a Special Meeting on October 21st.

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

Regular Agenda (Special Meeting)

1. Discussion of Preliminary Regional Housing Needs Allocation (RHNA) and Authorization for Mayor to Sign Letter from Town Council Regarding Recommended Methodology- Planning Director and Town Manager

Planning Director Berto presented the staff report. He answered questions from the Council.

Mayor Goddard opened the meeting to public comments.

Mr. Frank Egger, Meadow Way, was concerned with where the proposed 530 new units would be, and the existing high wildland fire threat to the town.

Ms. Valerie Hood was concerned about water availability and the cost of new infrastructure.

Mr. Richard Applebaum stated the RHNA number was too high for the town.

Mr. Chance Cutrano suggested the proposed letter include vehicle miles travelled.

Mayor Goddard closed the meeting to public comments.

Councilmember Ackerman referred to the draft letter, the first page, second to the last paragraph and suggested the following change: "...other similarly...*would be expected to grow according to this methodology.*"

Councilmember Hellman stated the letter could refer to the report that came out last year about Fairfax's problem with evacuation.

M/S, Ackerman/Hellman, Motion to Authorize the Mayor to Sign Letter from Town Council Regarding Recommended Methodology and allow the Mayor to make any edits she deems appropriate.

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

Regular Agenda

8. Discuss/consider the concept of holding two regular Council meetings per month and direct staff- Town Manager

Mayor Goddard stated this item had been continued to the Special Town Council Meeting scheduled for October 21st.

9. Receive report on the Police Chief recruitment process and consider the appointment of an Interim Police Chief in December to allow for more community input into the process for a permanent replacement- Town Manager

Town Manager Toy presented a staff report. He answered questions from the Council.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated this was a unique opportunity to learn about public safety needs of Fairfax.

Ms. Valerie Hood stated Fairfax had a model police force.

Ms. Cindy Swift supported the appointment of Lieutenant Tabaranza as Interim Police Chief.

Mr. Chance Cutrano supported flexibility and a community process, and the appointment of Lieutenant Tabaranza as Interim Police Chief.

Ms. Naomi Schultz stated the Police Practices and Public Safety Alternatives Subcommittee of the RESJ should be a part of the review and approval process.

Mr. Brian Poindexter agreed with the comments made by Mr. Cutrano and Ms. Schultz. The RESJ Committee should have decision making authority in the appointment of a Police Chief.

Ms. Mimi Newton supported the appointment of Lieutenant Tabaranza as Interim Police Chief.

Ms. Veronica Geretz supported the appointment of an Interim Police Chief so the subcommittee of the RESJ can be a part of the recruitment process.

Mr. Joe McGarry supported the appointment of Lieutenant Tabaranza as Interim Police Chief, a broad community survey, a technical panel of Bay Area progressive thinkers, and the participation of the RESJ police subcommittee.

Ms. Deborah Benson supported appointing Lieutenant Tabaranza as the Interim Police Chief. She was concerned about the RESJ's involvement.

Zianah stated the process should be flexible and involve the community through the RESJ.

Mr. Elias Karkabi discussed how the RESJ addresses the need to empower people who have been disenfranchised.

Ms. Jane Richardson supported appointing Lieutenant Tabaranza as the Interim Police Chief. The entire community should have a voice in decision for the permanent position.

Mayor Goddard closed the meeting to public comments.

Vice Mayor Ackerman supported the recommendation to appoint Lieutenant Tabaranza as the Interim Police Chief.

Councilmember Coler agreed with Councilmember Ackerman. She supported using a community panel (with RESJ representatives) and a technical panel. She recommended using a recruiter for the permanent position. She supported a finite interim term.

Councilmember Hellman agreed with Councilmember Coler. The community panel could also include local business representatives. She supported appointing Lieutenant Tabaranza as the Interim Police Chief. She confirmed there was an appropriate allocation for police overtime. She noted that anti-racism was not anti-police. She supported a finite interim term.

Councilmember Reed supported appointing Lieutenant Tabaranza as the Interim Police Chief. He supported hiring internally. Based on his experience hiring a fire chief, smaller entities do not get a lot of good candidates.

The Council discussed the recruitment process for the permanent position, including a community survey.

Mayor Goddard stated the Town Manager could begin work on a Request for Proposals (RFP) from recruiters to give the Council that option once an interim chief is appointed.

Town Manager Toy stated he would return in December with a proposal for the Interim Chief.

10. Receive report on the Town's Business Recovery Programs and provide direction on the extension of the terms of the temporary encroachment permits and temporary outdoor use permits beyond the November 30, 2020 expiration date- Town Manager

Mayor Goddard stated this item had been continued to the Special Town Council Meeting scheduled for October 21st.

M/S, Reed/Coler, Motion to waive the 11:30 rule.

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

11. Receive update on the selection of a facilitator for the Racial Equity and Social Justice Committee (RESJ)- Town Manager

Vice Mayor Ackerman and Councilmember Hellman presented a report and discussed the individuals they interviewed for this position. Councilmember Ackerman noted they did not want a major part of the RESJ budget used for the facilitator.

Councilmember Coler asked about a resume and list of clients of the facilitator. She questioned the \$425 hourly rate and stated it was too high.

Mayor Goddard asked who would do the hiring. Town Manager Toy stated the contract would come to the Council in November. The facilitator's resume will be posted on the Town website.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated he was confused by the 300 hours of service when the RESJ will meet once a month for a year.

Ms. Valerie Hood stated \$100 per hour was enough.

Ms. Veronica Geretz stated it would be helpful to retain some of the \$100,000 allocation to the RESJ for community events, education, and outreach.

Mr. Joseph McGarry stated he came up with 72 hours of work based on the proposal, suggested there was a miscalculation in the report.

Mayor Goddard closed the meeting to public comments.

Councilmember Ackerman stated the estimate of \$30,000 was appropriate for a facilitator who was going to do a good job on this important committee.

Councilmember Coler recommended they move forward with Ms. Lisa Jimenez with the idea of negotiating a lower hourly rate.

Town Manager Toy stated he would bring back draft two contracts: one to cover the October 26th RESJ meeting and one for the remaining work.

Public Hearings

12. 80 Crest Road: Appeal of a Planning Commission Denial of a Height Variance for an unpermitted Ground Floor Level that would result in the height of the residential structure being approximately 50 feet; Assessor's Parcel No. 002-152-32; Residential Single-Family RS-6 Zone; Verle and Marlene Sorgen, appellants/owners; CEQA Categorically Exempt Per Sections 15301(e)(2)(1), 15060(c)(3)- Principal Planner, Town Manager
This item has been continued to the November 4, 2020 Town Council Meeting

Mayor Goddard noted this item was continued to the November 4, 2020 meeting.

Council Reports and Comments

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

Town Manager's Report

There was no report.

M/S, Reed/Coler, Motion to adjourn the meeting at 1:12 a.m. in memory of Mr. Robert "Bob" Bernard Keating and Ms. Rosemary K. Lang.

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

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

DRAFT Fairfax Town Council Minutes
Special Meeting and
Continued Special Meeting from October 21, 2020
Via Teleconference due to COVID-19
Wednesday, **October 28, 2020**

Mayor Goddard called both Special Meetings to order at 7:00 p.m.

Call to Order/Roll Call/Pledge of Allegiance:

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

STAFF MEMBERS PRESENT: Garrett Toy, Town Manager
Michele Gardner, Town Clerk
Janet Coleson, Town Attorney

Mayor Goddard explained the various ways an individual could participate in tonight's meeting.

Approval of Meeting Agenda and Affidavit of Posting

M/S, Hellman/Reed, Motion to approve the Agendas for the Continued Special Meeting and the Special Meeting and the Affidavits of Posting.

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

Consent Calendar

1. Receive Report on the status of Residential Rental Assistance Program to assist extremely low-income renters whose household incomes were adversely affected by COVID-19 and who are at risk of homelessness.

M/S, Hellman/Reed, Motion to pull the Consent Calendar item for discussion under the regular agenda.

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

Regular Agenda

1. Receive Report on the status of Residential Rental Assistance Program to assist extremely low-income renters whose household incomes were adversely affected by COVID-19 and who are at risk of homelessness.

Town Manager Toy presented the staff report, stating there were 38 applications and approximately \$43,000 left in the fund. Eight grants had been awarded, one was in process, and four were waiting for documentation. Seven were deemed ineligible and some no longer needed assistance.

Councilmember Hellman asked if they could change the criteria and expand the program to a higher income level. Town Manager Toy stated he would need to discuss that with the nonprofits administering the program.

Councilmember Coler noted that with \$43,000 and a cap of \$2,500, there would be seventeen possible grantees. She asked if the fifteen applicants on the County's wait list were contacted. Town Manager Toy stated they are included in the thirty-eight original applicants. Councilmember Coler stated they should check with some of the community-based organizations before expanding the program.

Mayor Goddard asked how many Fairfax residents were on the wait list prior to approval of this program. Town Manager Toy stated he would get that information.

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

Mayor Goddard stated she would prefer to continue the outreach at the lower income level to find the most vulnerable.

2. Discuss/consider the concept of holding two regular Council meetings per month and direct staff- Town Manager

Town Manager Toy presented the staff report and answered questions from the Council.

Mayor Goddard opened the meeting to public comments.

Mr. Richard Applebaum stated the goal was to end meetings earlier to maximize citizen participation by holding meetings that ended at a reasonable hour.

Ms. Pamela Meigs stated democracy was the goal.

Ms. Mallory Geitheim agreed with the previous two speakers. She added that the priority issues should be placed at the beginning of the agenda.

Mayor Goddard closed the meeting to public comments.

Councilmember Hellman supported the concept of two meetings. She asked for details on how they would measure the success.

Vice Mayor Ackerman stated one measurement of success would be taking care of issues and not continuing them. He liked the idea of one Regular Meeting and one Special Meeting starting at 6:00 or 6:30 p.m.

Councilmember Reed agreed with Councilmember Ackerman.

Councilmember Coler supported the idea of adding one Special Meeting per month starting at 6:30 p.m. She suggested changing the public's allotted amount of time to speak to two minutes when there were a lot of speakers. She did not think strict performance measures were necessary. Simple metrics would work.

Mayor Goddard supported a six-month trial period. She suggested scheduling a forum format for big topics. Town Manager Toy stated a workshop type format would not allow the Council to deliberate and take action. Town Attorney Coleson added that the Council could not have that type of back and forth on a quasi-judicial matter.

M/S, Coler/Reed, Motion to start most Special Meetings at 6:30 p.m., that they be scheduled over six months, and that at a future Council meeting they have a discussion on measures of success.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard (Through a roll call vote)

4. Receive report on the Town's Business Recovery Programs and provide direction on the extension of the terms of temporary encroachment permits and temporary outdoor use permit beyond the November 30, 2020 expiration date and uses of other public spaces- Town Manager
5. Introduction of an "Ordinance of the Town Council of the Town of Fairfax Authorizing the Town Manager to issue Temporary Outdoor Use Permits to Allow Restaurants and other Businesses to Provide Outdoor Dining and Curbside Pickup and Waiving any Applicant Fees in the Town's Review Process, and Authorizing the Expiration Date of Such Permits to Be Set by Resolution" and Adoption of a Resolution Setting an Expiration Date (May 31, 2021) for the Issuance of Temporary Use Permits to Allow Restaurants and Other Businesses to Provide Outdoor Dining and Curbside Pickup- Town Manager

Mayor Goddard stated these two agenda items would be considered concurrently.

Town Council Toy presented the staff report.

Mayor Goddard invited the Chamber of Commerce to address the Council.

Mr. David Smadback, Executive Director of the Chamber of Commerce, discussed the "shared table" program next to the Gestalt Haus. The program currently runs Thursday through Sunday from 10:00 a.m. to about 10:00 p.m. There are four beer tables with benches, six bistro tables with twelve chairs, and seven umbrellas. Seating capacity is about twenty-eight.

Mr. John Bela, Urban Design, discussed the design and configuration of the outdoor dining spaces along Broadway and Bolinas, the results of the surveys that were sent to local businesses, his recommendations for operations and maintenance, more bike parking, and better access to drinking water and restrooms.

Ms. Kaz Bagley, President of the Chamber of Commerce, stated the "parklets" and outdoor space are critical to helping the businesses survive, and that many of the restaurants were thinking about winterizing these spaces. The Chamber is recommending the continuation of the program until there is a return to normalcy.

Councilmember Coler stated one of the restaurants had a street extension that in front of a retail space. She also observed tables very close together. She asked Mr. Bela if those extensions could be shorter or if the retail businesses could be accommodated. Mr. Bela stated some additional design guidance could solve this issue. The intent of "shoplets" (extending the sidewalk into the curb lane) was to allow people to pass while practicing safe social distancing. Mr. Bela stated the idea of a parklet is that they are public – not just for the business.

Councilmember Hellman asked the Chamber to broaden the reach of the survey beyond the people using the shared tables.

Mayor Goddard opened the meeting to public comments.

Mr. Alec Shultiner stated he supported extending the program and increasing safety by installing bike lanes on Broadway to provide a buffer between outdoor seating and vehicular traffic.

Mr. Rick Hamer supported the intention of the Temporary Use Permit Program, but he had concerns with the Ordinance and opposed the extension of the TUP Program. He suggested existing permittees reapply under the new terms.

Ms. Pamela Meigs was supportive of the concept but had safety concerns about the parklet on Bolinas Road.

Ms. Mallory Geitheim read a statement from a resident about the status of one of the Temporary Use Permits.

Mr. Chance Cutrano supported the extension of the permits and more signage.

Mr. Mark Bell opposed making the permits permanent.

Mayor Goddard closed the meeting to public comments.

Councilmember Hellman thanked the Chamber of Commerce for their work on the Mono Lot. She asked for more communication to the public about what it is, and more signage explaining the way it operates.

Councilmember Coler stated the signs should say: 1) This is a public space for all; 2) No alcohol is allowed in this space; 3) Rest rooms are available at Town Hall.

Councilmember Hellman did not support the idea of opening it up to seven days a week.

Councilmember Ackerman stated the alcohol being consumed in this area should be from the local restaurants or bars.

Councilmember Reed stated this space is perceived to be an extension of the Gestalt Haus. The seven-day concept is a “chicken and egg” issue. They need a maintenance plan.

Mayor Goddard asked staff to bring back a proposal for the seven-day concept at the Mono Lot.

Councilmember Coler supported requiring businesses to reapply for Temporary Use Permits and the Temporary Encroachment Permits, as some may no longer want or need them. She asked for improved signage near the loading zone at Bolinas/Broadway to address double parking. She would like guidelines for retail accessibility and use of the parklets.

Councilmember Ackerman stated the structures should have reflectors during the winter months to improve visibility.

Councilmember Reed stated the needs of retailers and pedestrians should be reviewed.

Councilmember Hellman supported the reflector idea.

Mayor Goddard asked for more enforcement with respect to the double parking, and clear signage for the loading zones. Allowing the Mono Lot to be open 7 days a week would provide flexibility including an artisan’s bazaar for the holidays.

Town Manager Toy stated staff would reach out to all applicants to see if they wanted to renew their TUP. He noted everything staff is doing is a “work in progress” and businesses are trying to survive.

M/S, Coler/Ackerman, motion to Introduction and read by title only an “Ordinance of the Town Council of the Town of Fairfax Authorizing the Town Manager to issue Temporary Outdoor Use Permits to Allow Restaurants and other Businesses to Provide Outdoor Dining, and other Retail Uses, and Curbside Pickup and Waiving any Applicant Fees in the Town’s Review Process, and Authorizing the Expiration Date of Such Permits to Be Set by Resolution, and adding any

necessary amendments to the code language to affect that change.

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

M/s Coler/Ackerman, to establish an expiration date of May 31, 2021 and schedule the consideration of the resolution to be concurrent with the adoption of the Ordinance.

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

(Through a roll call vote.)

M/S, Reed/Coler, motion to adjourn the meeting at 10:35 p.m.

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

Respectfully submitted,

Toni DeFrancis
Recording Secretary

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

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

Call to Order/Roll Call:

COUNCILMEMBERS PRESENT:

Bruce Ackerman
Barbara Coler
Renee Goddard
Stephanie Hellman
John Reed

STAFF MEMBERS PRESENT:

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

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

Approval of Meeting Agenda and Affidavit of Posting

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

Land Acknowledgement

Announcements

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

Open Time

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

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

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

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

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

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

Presentation

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

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

Mayor Goddard opened the meeting to public comments.

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

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

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

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

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

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

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

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

Mayor Goddard closed the meeting to public comments.

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

Consent Calendar

1. Accept Financial Statements and Disbursement Reports July-August 2020- Finance Director
2. Receive written reports on Councilmember's assignments, committees, and activities in October- Town Clerk
3. Approve minutes for the September 2, 2020 Town Council meeting- Town Clerk
4. Receive report of Town Hall closure and winter furlough days for Town Hall employees From December 24, 2020 through January 3, 2021- Town Manager
5. Adopt a Resolution establishing the regular Council meeting dates for the months of January

and July in 2021, and confirm 2021 meeting calendar- Town Clerk

6. Approve agreement with OLAS Performance to provide facilitation services for the Racial Equity and Social Justice Committee in an amount not-to-exceed \$40,000- Town Manager
7. Adopt a Resolution Authorizing the Mayor to Sign the Dissolution Agreement of the Marin County Major Crimes Task Force- Town Manager
8. Adopt a Resolution Opposing Offshore Oil and Gas Drilling and Exploration Activities, Including Seismic Airgun Blasting- Mayor Goddard

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

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

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

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

M/S, Coler/Reed, Motion to approve the Consent Calendar.

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

Public Hearings

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

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

Assistant Planner Spencer presented a staff report.

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

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

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

Mayor Goddard opened the Public Hearing.

Mr. Morgan Hall, appellant, stated he is representing the neighborhood of Walsh Lane. Walsh Lane is a small neighborhood - the lane is 10 feet wide, a block long, and a dead end. He stated that many of the Design Review and Hillside Residential Development requirements were not addressed by the Planning Commission. Variances were not sought. He spoke about the deficient setbacks and the restrictions of the non-conformities. The definition of the basement was incorrectly interpreted and should have been included in the floor area ratio (FAR) calculations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Goddard closed the Public Hearing.

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

M/S, Coler/Reed, Motion to continue this item to the November 18th meeting to allow staff to address the following issues: 1) Setbacks; 2) Floor Area Ratio (FAR) with respect to legal

nonconformity; 3) The lower floor area (unfinished/basement) and how it relates to FAR; and any other issues that staff deems appropriate.

AYES: Coler, Hellman, Reed, Mayor Goddard

RECUSED: Ackerman
(Through a roll call vote)

Councilmember Ackerman returned to the meeting.

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

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

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

Regular Agenda

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

Town Manager Toy presented the staff report.

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

Mayor Goddard opened the meeting to public comments.

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

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

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

Mayor Goddard closed the meeting to public comments.

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

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

Town Manager Toy presented the staff report.

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

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

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

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

Town Manager Toy presented the staff report.

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

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

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

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

Town Manager Toy presented the staff report.

Mayor Goddard opened the meeting to public comments.

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

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

Ms. Deborah Benson proposed the Coffee Roastery move the outdoor seating onto Broadway

and the bike racks to the Parkade. This would return the loading zone and leave Bolinas Road open for evacuation purposes.

Mayor Goddard closed the meeting to public comments.

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

Councilmember Hellman agreed with Councilmember Coler.

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

Councilmember Ackerman agreed with the comments of the Councilmembers.

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

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

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

Council Reports and Comments

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

Town Manager's Report

There was no report.

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

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

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

DRAFT Fairfax Town Council Minutes
Special Meeting
Via teleconference due to COVID-19
Wednesday, **November 18, 2020**

Mayor Goddard called the Special meeting to order at 6:30 p.m.

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

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

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

Approval of Meeting Agenda and Affidavit of Posting

M/S, Reed/Hellman, Motion to approve the Affidavit of Posting and the agenda.

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

Interview and Appointments

1. Interview applicants for the Climate Action Committee, the Tree Committee, and Measure F Oversight Committee; make appointments as appropriate- Town Clerk

The Council interviewed Ms. Beth Verdekal, for the Climate Action Committee. The second applicant for the Committee was not present.

The Council interviewed Mr. Tom Childers and Ms. Beth Verdekal for the Tree Committee.

Town Clerk Gardner reported the Measure F Oversight Committee interviews had been rescheduled to accommodate the applicants.

Mayor Goddard opened the meeting to public comments.

There were no comments.

Mayor Goddard closed the meeting to public comments.

The Council discussed staggered terms for the Climate Action Committee and the Tree Committee. Town Manager Toy discussed the ordinance and the nature of at-large membership.

M/S, Ackerman/Hellman, Motion to appoint Ms. Beth Verdekal to the Climate Action Committee.

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

M/S, Coler/Reed, Motion to appoint Mr. Tom Childers to the Tree Committee.
AYES: Ackerman, Coler, Hellman, Reed, Mayor Goddard

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

Regular Agenda

2. Proclamation in Honor of Ms. Norma McFadden- Mask Maker Extraordinaire- Councilmember Coler

Mayor Goddard read the Proclamation in Honor of Ms. Norma McFadden- Mask Maker Extraordinaire.

Councilmember Coler read a message from Ms. McFadden thanking the Council for the recognition.

Mayor Goddard opened the meeting to public comments.

Ms. Liz Darby, Marin County Department of Health and Human Services, thanked Ms. McFadden for her service to the community.

Mayor Goddard closed the meeting to public comments.

3. Appeal of Planning Commission action approving Hill Area Residential Development, Excavation, Design Review, and Tree Removal Permits for the expansion and remodeling of the single-family home located at 6 Walsh Lane. Categorically Exempt from CEQA under CEQA guidelines per sections 15301(e)(2)(A) (Class 1) and 15302 (Class 2)- Assistant Planner, Planning Director
Continued from November 4, 2020

Vice Mayor Bruce Ackerman recused himself due to the proximity of his home to the project.

Assistant Planner Spencer presented the staff report.

Councilmember Hellman asked if the reference to the 93 square feet that would remain unfinished was new information. Assistant Planner Spencer stated "no". Councilmember Hellman asked staff to point it out on the plans. Planning Director Berto noted it was on the east side and was less than seven feet in height.

Councilmember Hellman asked if there was a permit for the legal nonconformity of the structure. Assistant Planner Spencer explained the nonconformities were built prior to the applicable Zoning Code Sections. That is what makes them legal, non-conforming.

Councilmember Hellman asked staff to explain how the proposed project does not increase the existing combined front and rear nonconforming setbacks even though there is an increase in height. Planning Director Berto stated that was not a trigger. Town Attorney Coleson stated the height is not already nonconforming and the proposal is within the height limit.

Councilmember Coler asked staff to display Page F2 of the plans regarding the Ross Valley Fire Department's notes on access. Councilmember Reed stated there was a 20' X 30' fire truck space shown on Page F2. Assistant Planner Spencer displayed the Fire Department notes.

Councilmember Reed asked about the square footage of the homes at the end of the street. Assistant Planner Spencer stated there was a chart in the Planning Commission staff report.

Mayor Goddard asked how much total square footage was being added outside of the original footprint of the house. Planning Director Berto stated 406 square feet.

Mayor Goddard asked about the southwest corner and the height (31'10). Planning Director Berto stated the grade drops in that area and about 20 square feet is at that height.

Mayor Goddard asked about the Marin Municipal Water District's requirements for a rainwater system. Planning Director Berto stated it was listed as a Condition of Approval in the resolution adopted by the Planning Commission.

Mayor Goddard noted the applicant and appellant had made presentations at the November 4th Council meeting, and tonight they were available for questions.

Mayor Goddard opened the Public Hearing.

Councilmember Coler asked the applicant if they intended to incorporate a graywater system into the plans. Ms. Laura Kehrlein, project architect, stated they were planning to install a valve on the washing machine and the dishwasher to allow discharge into the landscaping.

Councilmember Reed asked the applicant if they had considered other methods. Mr. Kehrlein stated they would be happy to look at going above and beyond the minimum requirements.

Ms. Sharab Bogan, Walsh Lane, opposed the project. The design and size did not fit in with the neighborhood and would create parking issues.

Ms. Lynn Yetter opposed the project, and stated that building a five-bedroom home eliminated housing for seniors, a couple, or a small family.

Mr. Frank Egger, speaking for Save Fairfax, urged the Council to approve the appeal and allow the applicant to reapply for a smaller structure. He discussed his interpretation of the Town Code. He was concerned about "ex parte communications."

Mr. Christof Bessler stated Walsh Lane was a small neighborhood and the design of the project did not fit into the neighborhood.

Ms. Valerie Hood opposed the project. She was concerned about water shortage and fire evacuation.

Ms. Pamela Meigs urged the Council to consider the character of the neighborhood and grant the appeal.

Mr. Larry Bragman supported the appeal. He stated the unfinished area should be added to the Floor Area Ratio (FAR) calculation, that the entire structure was nonconforming, and any expansion required a Variance.

Ms. Sandra Stamos opposed the project as too big, and was concerned about impacts to traffic and parking.

Mr. Rick Hamer supported the appeal and the creation of a Design Review Board.

Ms. Ling Shien Bell supported the appeal. The house was out of character and too big.

Karen stated there should be a compromise. She stated the house did not fit the neighborhood.

Ms. Mahoney Neal supported a compromise. She was concerned for the neighborhood.

Mr. Morgan Hall, appellant, stated the Code states that a discrepancy cannot be increased. He stated a basement must counted as floor area whether or not it is habitable and that put it over the FAR. He discussed the County Assessor records regarding the lower level.

Ms. Deborah Benson stated the project did not fit into the neighborhood and that was a basis for denial. She was concerned about the excavation.

Ms. Laura Kehrlein, project architect, stated the project meets the Zoning Codes and provides parking and a fire-safe structure. She urged the Council to review the facts presented in the staff report and the Town Attorney's memorandum, deny the appeal, and uphold the Planning Commission's approval of the project.

Mayor Goddard closed the Public Hearing.

Councilmember Coler stated Councilmembers are permitted to meet with the applicants during the site visit and the Council disclosed their visits at the public hearing on this matter. The existing structure is a fire hazard and a blight on the neighborhood. The project did not need any Variances. The Commission followed the Design Review guidelines. The project is within the size and height limits. The legal, nonconforming elements are not being exacerbated and are grandfathered in. The unfinished area should not count towards the FAR.

Councilmember Reed agreed the existing structure is in a dilapidated state. He was concerned that the project is much bigger than the other houses on the street, and that Walsh Lane is a ten-foot-wide private road with no on-street parking. The project complies with all the words in the Code, but Design Review is about the "look and feel" of a project. He would like to see a compromise that the neighbors could live with.

Councilmember Hellman asked for clarification of the Code with respect to a second story addition/alteration. Town Attorney Coleson stated she did not view this as a second story and is of the opinion that the alteration is in conformance. Planning Director Berto stated it complied with the Zoning standards and does not require a Variance.

Councilmember Hellman stated she had concerns about parking, evacuation, and preserving the character of the Town. She stated the project did not fit in - it was larger in floor area and higher than homes in the neighborhood.

Mayor Goddard stated there were Findings that need to be made that clearly define a decision. The existing structure is a fire hazard. The project does not look like the other houses on Walsh Lane but there is an eclectic mix of designs in the neighborhood. The house is big, but there will be minimal disturbance of the natural features. The project is creating off-street parking. There are no visual or privacy impacts. The project meets all the sections of the Code. She liked the design and materials.

Town Attorney Coleson stated there was a resolution denying the appeal in the packet. It would take three votes to pass a resolution. Granting the appeal would require the Council make Findings, so the matter would need to be continued for the findings to be incorporated in a

resolution that would be brought back to the Council at the next meeting. A tie vote constitutes “no action” and the decision of the Planning Commission would stand unless there was a subsequent motion for continuance.

Councilmember Coler made a motion to deny the appeal.
Mayor Goddard seconded the motion.
Councilmember Hellman voted no.

At 10:04 p.m. the Council took a break.

The Council reconvened at 10:21 p.m.

Town Attorney Coleson noted there was a motion on the table with one no vote and reminded the Council that if Councilmember Reed voted no, the appeal would be denied and the Planning Commission approval would stand unless there was a further motion to continue the matter and it was approved with three votes.

M/S, Coler/Goddard, Motion to deny the appeal.
AYES: Coler, Mayor Goddard
NOES: Hellman, Reed
RECUSED: Ackerman

Motion failed due to the tie.

M/S, Hellman/Reed, Motion to continue the appeal to the December 16th meeting.
AYES: Hellman, Reed
NOES: Coler, Mayor Goddard
RECUSED: Ackerman

Town Attorney Coleson stated the decision of the Planning Commission approving the project application stands.

Mayor Goddard adjourned the meeting at 10:30 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary