

RESOLUTION 21-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
UPHOLDING THE PLANNING COMMISSION ACTION APPROVING HILL AREA
RESIDENTIAL DEVELOPMENT, DESIGN REVIEW, TREE REMOVAL AND
EXCAVATION PERMITS AND A RETAINING WALL HEIGHT VARIANCE,
APPLICATION 21-03, FOR THE CONSTRUCTION OF A 23 FOOT TALL, 2,511
SQUARE-FOOT, THREE BEDROOM, TWO AND A HALF BATHROOM, SINGLE-
FAMILY RESIDENCE AND ACCESS DRIVEWAY AT 64 SPRING LANE,
ASSESSOR'S PARCEL NO. 002-174-05**

WHEREAS, on February 3, 2020, the Town of Fairfax received an application from Stacy and John Peoples for a residence, attached two car garage, private driveway, and a shared access driveway approach with the existing residence at 65 Spring Lane for a new residence at 63 Spring Lane; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on February 18th, 2021 to consider approval of the owner's requested Hill Area Residential Development, Design Review, Tree Removal and Excavation Permits and driveway Retaining Wall Height Variance and at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, at the conclusion of the February 18th, 2021 Planning Commission meeting, that body did approve, by way of its adoption of Resolution 2021-03, the plans dated received by the Town on February 2, 2021, prepared by Doug Thompson, Architect, sheets A0.1, A1.0A, A1.0B, A1.1, A1.4, A1.4A, A2.1, A2.2, A2.3, A2.4, A5.0, A3.1, A3.1R, A3.2R, A3.3 to A3.5 (revision date 10/16/20), sheets A1.2, A1.3A, A1.3B, A1.3C, A1.6 (revision date 1/27/21 – driveway and wall); and

WHEREAS, the Town Council has made the following findings for conditional approval of the project, upholding the Commission's February 18th, 2021 action subject to the following additional conditions:

The project conforms to the following 2010-2030 Town of Fairfax General Plan Policies:

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-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

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.

Policy S-3.1.3: Maximize access and egress for emergency response vehicles.

Policy OS-3.2.2: Discourage development of any man-made structure on the ridgelines and within the ridge zones within the Fairfax Planning Area.

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 one single-family residence on this 42,200 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 use 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 City.
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 by Doug Thompson, sheets A0.1, A1.0A, A1.0B, A1.1, A1.4, A1.4A, A2.1, A2.2, A2.3, A2.4, A3.0, A3.1, A3.1R, A3.2R, A3.3 to A3.5 (revision date 10/16/20), Sheet A1.2, A1.3A, A1.3B, A1.3C, A1.6, (revision date 1/27/21 - driveway and wall),

Civil Engineering grading and Drainage plan pages C1 through C7 dated 8/4/20 and H1 dated 5/21/20.

Boundary and topographic map dated November 2018 and Record of Survey by Stephen Flatland.

Geotechnical report Dave Olnes, dated 11/15/19

Drainage Report by DVC Group dated 5/21/20

9. Based on the Town Engineer's review and recommendation that the project can be safely constructed, the Planning Commission finds that:
 - a) The health safety and welfare of the public will not be adversely affected;
 - b) Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
 - c) Adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work;
 - d) 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;
 - e) The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
 - f) Natural landscaping will not be removed by the project more than is necessary; and
 - g) 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 (Town code § 17.072.090(c)(4) prohibits grading of hillside properties from October 1st through April 1st of each year).

Retaining Wall Height Variance

10. The 15.5-foot-tall driveway retaining wall is necessary to create access to the structure and garage and to create a driveway that is accessible to Fire Trucks and other emergency vehicles. The wall cannot be stepped back as multiple walls due to the close proximity of the existing residence at 65 Spring Lane. The orientation of the site with respect to the improved roadway and the site slope necessitate the need for the wall height variance because the strict application of the retaining wall height limit will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.

- 11. The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification and is consistent with the objectives of this title.
- 12. The strict application of this title would result in excessive or unreasonable hardship.
- 13. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

WHEREAS, at the conclusion of the June 2, 2021 public hearing, the Town Council found that the findings made by the Planning Commission in the attached Resolution No. 2021-03 (Exhibit A) are appropriate to support the Council upholding the Commission action approving the project as long as the additional conditions are met and clarified:

- 1. The transition between the private driveway and the entrance to the unpaved portion of Spring Lane and a temporary transition from the top of the driveway to the unpaved portion of Spring Lane for emergency vehicle access shall be detailed in the building permit plans to provide temporary access and shall be approved by the Town Engineer prior to issuance of the project building permit. The transition grading shall be inspected and approved by the Town Engineer prior to the project final inspection and prior to issuance of certificate of occupancy; and
- 2. Use of the unpaved portion of the Spring Lane roadway for storage of construction materials and/or employee parking shall be limited to the side nearest the front property line of 63 Spring Lane, maintaining at least ten feet of unobstructed road width to allow access to the properties east of the project site by standard vehicles.
- 3. Prior to issuance of the building permit the owners have agreed to provide emergency access across APN 002-174-05 to APN #'s 002-174-03 and 04 for all applicable emergency response and utility agencies and the Town of Fairfax

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Town Council of the Town of Fairfax:

Section 1. The recitals set forth above are incorporated herein

Section 2. Based on the foregoing, the Town Council of the Town of Fairfax does deny the requested appeal and upholds the Planning Commission approval of the Hill Area Residential Development, Design Review, Tree Removal and Excavation Permits and the Retaining Wall Height Variance as set forth in Attachment A, Planning Commission Resolution 2021-03.

The foregoing resolution was adopted at a regular meeting of the Town Council held in said Town, on the 2nd day of June 2021, by the following vote:

AYES:

NOES:

ABSENT:

BRUCE ACKERMAN, Mayor

Attest:

Michele Gardner, Town Clerk