

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, SEPTEMBER 21, 2023

Call to Order/Roll Call:

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

Commissioners Present: John Bella  
Philip Feffer  
Robert Jansen  
Mimi Newton  
Cindy Swift (Chair)

Commissioners Absent: Brett Kelly

Staff Present: Jeffrey Beiswenger, Planning Director  
Linda Neal, Principal Planner  
Kylee Otto, Assistant Town Attorney  
Kara Spencer, Assistant Planner

#### **APPROVAL OF AGENDA**

M/s, Jansen/Newton, motion to approve the agenda as submitted.  
AYES: Bella, Feffer, Jansen, Newton, Chair Swift  
ABSENT: Kelly

#### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

#### **CONSENT CALENDAR**

There were no Consent Calendar items.

#### **PUBLIC HEARING ITEMS**

- 1. 109 Broadway: Application #22-22**  
**Continued consideration of a request for a Fence Height Variance, Design Review Permit, and an Encroachment Permit to erect an 8-foot tall fence along approximately 350 linear feet of the rear property line along Spruce Road and install a planting buffer within the Spruce right-of-way (Tree Removal Permit no longer required- the plans have been revised so that no trees subject to Town Code Chapter 8.36, Trees, are proposed for removal; AP# 001-148-13; Service Commercial CS Zone; Fairfax Lumber and Hardware, Applicant; San Rafael Lumber Company, owner; CEQA categorically exempt per Section 153043(e)**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding whether the landscape architect met with the neighbors; maintenance of the corrugated metal.

Chair Swift opened the Public Hearing.

Mr. Gary Roth made the following comments:

- He talked about what has occurred since the last meeting.
- He met with the neighbors; shared the plans with the changes; recessed some of the fence panels to allow more vines to grow; walked around with the Fire Marshal who recommended some pruning.
- The panels have a rustic quality and come pre-finished.
- They will install misters for one of the bins and will upgrade the irrigation.

Mr. Roth answered questions from the Commission regarding the misters; if the invasive species of trees will be removed; the proposed vine (Boston Ivy) for the fence.

Mr. James Riley, Spruce Road, made the following comments:

- This is a good plan.
- There should be a condition requiring the removal of graffiti.
- Sprinklers, and not misters, should be used for the bins.

Ms. Kendra Scott, Spruce Road, made the following comments:

- Dust is being created by the bins and the lumber yard itself.
- Adding a mister to the bins will not remove the dust.
- The bins should be moved.

Ms. Susie Bergen, Spruce Road, made the following comments:

- She agreed with Ms. Scott.
- This is a pretty good plan.

Hillary, Spruce Road, made the following comments:

- She was concerned about graffiti and maintenance of the fence.
- The dust is the main problem.

Mr. Roth made the following comments:

- They owners are trying to manage the situation while staying in business.
- They are proposing professional grade sprinklers and not misters.
- Moving the bins is a non-starter.
- He would not propose adding more shrubs into the mix.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- He made a change to the resolution on page 2, under the second "Whereas", #2, and suggested adding the words "free of graffiti".

M/s, Kelly/Bella, motion to adopt Resolution No. 2022-30 with the change recommended by Commissioner Jansen.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

Chair Swift stated there is a 10-day appeal period.

## **2. 18 Wood Lane; Application #23-25**

**Request for a Design Review Permit to construct an approximately 668 sq. ft. detached garage/workshop in a Ridgeline Scenic Corridor; AP # 002-041-37; RS 6 Single Family Residential Zone; Gabriel Dunne, owner/applicant; CEQA categorically exempt per Section 15303(a) and 15305(a)**

Assistant Planner Spencer presented the staff report. There were some additional conditions. She answered questions from the Commission regarding whether the structure would have electricity; the fire sprinkler issue.

Chair Swift opened the Public Hearing.

Mr. Gabriel Dunne, applicant, made the following comments:

- He wants a nice water proof storage area and workshop.
- It will match the existing architecture of the house.
- It will not impact the turnaround.
- There will be electricity but no plumbing in the workshop.

Mr. Dunne answered a question regarding the turnaround area.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- The project is nicely nestled into the appropriate space.
- The conditions from the Ross Valley Fire Department should reference a “garage” and not a “residence”.

Commissioner Newton provided the following comment:

- The Ross Valley Fire Department conditions refer to “sleeping rooms” and “the number of stories”.

Principal Planner Neal stated conditions #15 and #16 could be deleted.

M/s, Jansen/Newton, motion to adopt Resolution No. 2023-23 including the Ross Valley Fire Department conditions #11 through #14 and #17 through #19 submitted by staff.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

Chair Swift stated there is a 10-day appeal period.

### **3. 66 Cascade Drive; Application #23-26**

**Request for a Conditional Use Permit and a Variance for a 440 sq. ft. primary bedroom and bathroom addition and remodel to a 1,192 sq. ft. house; AP #003-203-17; RS 6 Single Family Residential Zone; Jamie Romero, applicant; Daniel McKenzie, owner; CEQA categorically exempt per section 15301(a) & (e)(1)**

Assistant Planner Spencer presented the staff report. She stated there were edits to the Resolution. She answered questions from the Commission regarding the Variance to allow parking in the side-yard; if the Town received comments from any neighbors.

Chair Swift opened the Public Hearing.

Mr. Daniel McKenzie, owner, made the following comments:

- They work from home and the house is now tight.
- They want to turn one room into an office and add a bedroom.
- He talked to all of the neighbors- they were all supportive.

Mr. McKenzie answered a question from the Commission about the small shed in the back.

Chair Swift closed the Public Hearing.

M/s, Jansen/Bella, motion to adopt Resolution No. 2023-24 with the edits cited by Assistant Planner Spencer.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

Chair Swift stated there is a 10-day appeal period.

**4. 12 Barker Avenue; Application #23-27**

**Request for a Hill Area Residential Development Permit, Excavation Permit; Design Review Permit including action to allow construction within a Ridgeline Scenic Corridor, Retaining Wall Height Variance, Tree Removal Permit, and Revocable Encroachment Permit for a 3,347 sq. ft., single-family residence and 500 sq. ft., detached garage. Project includes construction of a Junior Accessory Dwelling Unit and a detached Accessory Dwelling Unit that do not require Planning Commission action; AP #002-071-01; Upland Residential UR-7 Zone; Gary Millar, applicant/architect; Matt and Mireya Quirie, owners; CEQA categorically exempt per Section 15303, Class 3, (a) and (e) and 15305(b)**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding an earlier submission; the protected Ridgeline Corridor area; the Visual Resources Map; If Town Code Section 17.060.070 applies to this project; the square footage listed in the table; if the resolution should indicate the Commission is granting an exception to the maximum house size limit; the Excavation Permit; if this parcel is on the General Plan Open Space inventory; the visually significant areas vs. top of the ridge areas vs. scenic corridors; why the road would not be maintained by the Town;

Chair Swift opened the Public Hearing.

Mr. Gary Millar, architect, made the following comments:

- He displayed a diagram of the site.
- The knoll is the natural site for the building. It is not in the area of the Scenic Corridor that has a significant view
- He talked about the siting of the house, the road location and extension, the driveway, and the retaining walls.
- The development and the retaining walls will be on the uphill side of the roadway. They will not be visible from Porteous.
- The Fire Department turnaround is the major imposition on the site. They attempted to minimize the amount of cut and fill. It is "Y" shaped rather than "T" shaped.
- He discussed the drainage and the design of the rain catchment.

Mr. Millar answered questions from the Commission regarding the height of the retaining walls; the contours and slope; the Stormwater Management Plan; mitigation of sedimentation or run-off from the fill.

Mr. Matt Quirie, owner, made the following comment:

- They have been clearing Scotch Broom from the property- lots of it.

Ms. Mireya Quirie, owner, made the following comment:

- They would like to provide a space for her aging parents.

Ms. Allison Zeus, Porteous Avenue, made the following comments:

- She is generally in favor of the project.

- She is concerned about having a road behind her property and who would build it, the run off, and construction impacts.

Mr. Randy Chavez, Porteous Avenue, made the following comments:

- He would be closest to the main house.
- He is excited about the project.
- The site was a “tinder box” until recent work was done.

Mr. David Garten, Barker Avenue, made the following comments:

- His house is at the same elevation as the applicants.
- He supports the project.

Mr. Charles Dice, Hillside Avenue, made the following comments:

- It sounds like a wonderful project.
- He has reservations about the visual impacts during the night.
- He would like to see a rendering as seen from across the valley.

Ms. Karen Gabriel, Hillside Drive, made the following comments:

- The project sounds amazing.
- She asked them to consider views from a greater distance.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She would like the resolution to reference the General Plan, Open Space Policy 3.2.3.
- It is possible to expand the visually significant areas by amending the General Plan.
- The colors should blend in with the environment.

Commissioner Bella provided the following comments:

- He is happy to hear about the updated design that balances the cut and fill on the site.
- A lot of thought has been given to the orientation of the road, the siting of the house, and the approach to the grading.
- He does not want to weigh in on colors.

Commissioner Jansen provided the following comments:

- He agreed with the other Commissioners.
- The project will fit nicely in the hill.
- He would like some assurances about the quality of the road construction in the public right-of-way.
- The light fixtures are downward facing and comply with the standards.
- He is concerned about the size of the house.

Commissioner Feffer provided the following comments:

- The colors look more subdued on the color board. He likes the look of the stone.
- The project was built with great detail and care.
- He was concerned about the interior lighting bleeding out from all the windows and recommended some way to limit that effect.

Chair Swift provided the following comments:

- She wondered if trees/vegetation would minimize the lights.
- There is nothing that they can do about interior lighting.

Principle Planner Neal recommended a changes to the resolution: 1) Findings for the Excavation Permit should include the amount of excavation; 2) Acknowledgment that the Commission approved an exception to the maximum floor area

M/s, Jansen/Newton, motion to adopt Resolution No. 2023-25 with the corrections to the resolution cited by Principle Planner Neal.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

Chair Swift stated there is a 10-day appeal period.

The Commission took a 5-minute break.

**5. Continued discussion/consideration of recommendation to the Town Council the following: A resolution of the Fairfax Planning Commission recommending the Town Council adopt an Ordinance amending the Fairfax Municipal Code to add or amend chapters.**

Planning Director Beiswenger presented the staff report and gave a PowerPoint presentation. Staff answered questions from the Commission regarding defensible space and high and very high fire zones; the errata sheet; single-family dwelling definition; if there is a reference to Dark Sky compliance; open space definitions; condominium conversions; definition of a tiny house; lot coverage and impervious surfaces, Section 17.010.100(d); change in parking requirements; when the Objective Design and Development Standards (ODDS) are applied and if they are applied to single-family homes; the ministerial process; Chapter 17.138; when subjective design standards can be used; the difference between discretionary and non-discretionary; evacuation concerns and parking; Design Review criteria; screening; applicability of landscaping standards; if Section 17.052 applies to all zoning types; parking requirements for tiny homes; Accessory Dwelling Unit (ADU) height measurement; Section 17.010.030(c); if the definition of balcony is necessary; minimum dimensions for lofts; Section 17.116.040 Single Family Residential Master Planning District; the relationship between inclusionary housing and the State density bonus; what would trigger SB 330 application procedures; the definition of "fair market value".

Chair Swift opened the Public Hearing.

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

- He discussed the adoption of the Fairfax Zoning Ordinance in 1973.
- The ordinance was designed to protect this small Town from overdevelopment.
- He is concerned about the direction of the Housing Element and the Safety Element.

Chair Swift closed the Public Hearing.

Commissioner Bella provided the following comments:

- Defensible space components should be added to the ODDS.
- There is a tremendous amount of information in the packet and it is confusing.
- The document presented tonight does not streamline the code.

Commissioner Newton provided the following comments:

- Tiny homes should have a one parking space requirement.
- The color issue is more important the higher up the ridges you go.
- She would not support the color blue up on a ridge.

Commissioner Jansen provided the following comments:

- He disagreed- he loves blue. That is the problem- it is subjective.
- He would like to discuss the color issue at another time.

Chair Swift provided the following comment:

- She agreed with Commissioner Newton with respect to the issue of color.
- She wants Section 17.052 to stay the way it is.

Commissioner Feffer provided the following comments:

- Parking requirements merit further discussion but tonight's exercise is to get the Zoning Ordinance in compliance with State law as opposed to having a substantive review of every subject.
- He would rather talk about the color issue at another meeting.

Chair Swift provided the following comments:

- The Tree Ordinance conflicts with Fire Safe Marin's list of fire resistant or prone plants.
- There is no clarity about applicability and the document lumps everything from a multi-family unit perspective.

Assistant Town Attorney Otto there is no consensus on the color issue and several Commissioners were on record stating that the color standard as stated in the errata is subjective.

M/s, Newton/Jansen, motion to adopt Resolution 2023-27 recommending the Town Council adopt an ordinance amending the Fairfax Municipal Code to add or amend the following chapters 17.010 (Rules of Measurement), 17.026 (Ministerial Approvals for Qualifying Housing Developments), 17.027 (Procedures for SB 330 Application for Housing Development), 17.050 (Affordable Housing Density Bonus), 17.006 (Definitions), 17.020 (Design Review Regulations), 17.024 (Required Permits), 17.032 (Use Permits), 17.040 (General Zone Regulations), 17.044 (Exceptions and Modifications), 17.048 (Residential and Accessory Dwelling Units and Junior Accessory Dwelling), 17.052 (Off-Street Parking and Loading Requirements), 17.056 (Traffic Impact Permit), 17.076 to 17.090, and 17.116 (Related to Residential Zones), 17.138 (Regulations Applying in Multiple Zone Districts), and 15.04 (Construction Codes) and incorporate all the consensus and input from the Planning Commission over the last two weeks and exclude the language from the errata about the color and go back to the proposal that was previously there.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

## **Minutes**

6. Review and approval of the minutes from August 17, 2023 meeting

M/s, Feffer/Jensen, motion to continue the August 17, 2023 minutes.

AYES: Bella, Feffer, Jansen, Newton, Chair Swift

ABSENT: Kelly

## **Commissioner Comments and Requests**

The Commission thanked Planning Director Beiswenger for the great work!

Commissioner Feffer asked for a review of the Housing Element and Zoning Code in January.

## **Planning Director's Report**

There was no report.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:25 a.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary



DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, OCTOBER 12, 2023

Call to Order/Roll Call:

Chair Swift called the Special Meeting to order at 7:00 p.m.

Commissioners Present:                   John Bela  
  Philip Feffer  
  Robert Jansen  
  Brett Kelly  
  Mimi Newton (attending remotely)  
  Cindy Swift (Chair)

Staff Present:                               Jeffrey Beiswenger, Planning Director  
  Linda Neal, Principal Planner

**APPROVAL OF AGENDA**

M/s, Bela/Jansen, motion to approve the agenda.  
AYES: Bela, Feffer, Jansen, Kelly, Newton, Chair Swift

**CONSENT CALENDAR**

There were no Consent Calendar items.

**PUBLIC HEARING ITEMS**

There were no Public Hearing Items.

**REGULAR ITEMS**

**1. Study Session: Zoning Amendments for Low Impact Clustering Residential Development**

Planning Director Beiswenger presented the staff report. He, along with Mr. Andrew Hill from Dyett & Bhatia, answered questions from the Commission regarding Attachment C and if the new map (OS-1) would replace the 1974 map; the strikeout of Visual Resources Map #9 in the Ridgeline Development Ordinance; the timeline with respect to CEQA Certification and approval of the amendments; the version of OS-1 labeled Visual Resources Map #9; the criteria for site selection for the low impact clustered housing sites; the evaluation criteria for color and materials; density identified with the Planned Development Zone (PDD); application of the Objective Design and Development Standards (ODDS); the Lot Split Ordinance and SB 9 with respect to the UR-7 zone; if it is common among other comparable clustered housing zoning regulations to have 75 % of the site maintained as Open Space.

Chair Swift opened the Public Hearing.

Mr. Rick Hamer, Fairfax, made the following comments:

- He cited his “Wish List” with respect to the 75% maintenance of Open Space.
- Average slope should be based only on the clustered development use.

Mr. Michael Macintosh made the following comments:

- Clustering can be very good.
- The ordinance should be rewritten.
- No criteria have been provided with respect to the 75% figure- it is a subjective “taking”.
- This overlay zoning should be an option.
- Some of the sites are on landslide areas.

Ms. Jessica Green made the following comments:

- She lives in a wooded area near the Wall property.
- She has a problem with ridgeline building.
- She is concerned about evacuation.

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

- Keeping the ridgelines free of development has been an on-going battle.
- He discussed the history of the Open Space Element and ridgeline protections.
- He discussed the history of some of the parcels on the list.

Ms. Dave Kidudow, Snowden Lane, made the following comments:

- He is a direct party to the 1991 Fairfax Hills Settlement Agreement. It is still in force and not null and void. The Town has misinterpreted the agreement.
- He was concerned about development on 615 Oak Manor Drive.

Mr. Mark Bell made the following comments:

- He thought changes had already been made to the Ridgeline Development Ordinance.
- He was concerned about adding more vehicles to the road during an evacuation from ADUs and JADUs.
- Ridgelines should remain untouched.

Mr. Kevin Curtis made the following comments:

- They cannot tell right now what will happen on a particular parcel.
- The sites list has not been sent to the State.
- The Marin Town and Country Club is the largest open and available parcel in Town.

Mr. Jack Judkins, speaking as an individual, made the following comments:

- This document has not been reviewed by the Open Space Committee.
- He supported the preservation of Open Space.
- Instead of the 75% figure he would prefer the following wording; “maximized the retention of Open Space”.

Ms. Debra (Dee Lee) Benson made the following comment:

- She agreed with the comments made by Mr. Egger.

Mr. Larry Bragman made the following comments:

- These ridgelines are really a “commons” and have been protected as such.
- He opposed opening up the ridge over Oak Manor. It will not provide affordable housing.

Chair Swift closed the Public Hearing.

The Commission made the following comments regarding Chapter 17.060, Ridgeline Development:

- Should be more specific.

- Questions about Section 17.060.050 (9),(10), A(3)
- Questions about Section 17.060.030 (A)
- Attachment “C” is hard to read.
- Color is not an objective review criteria and should be deleted.
- The subjective language would be difficult to enforce.
- What is considered a “neighboring property”?
- What is the definition of a “ridgeline”, “major ridge”, and “ridgeline scenic corridor”?
- The changes did not help with the previous ambiguities.
- The property specific issues raised by the public will need to be addressed.

The Commission made the following comments regarding Chapter 17.072, Hill Area Residential Development Overlay Zone:

- Concerns about clarity of applicability. They have to be careful where they apply ODDS.
- Concerns about the required Findings.
- Question about Section 17.072.010 (B)(1) and (6).
- Section 17.072.060(B)(3) should be deleted.
- Question about Section 17.072.090(H), possible contradictory objectives.
- Questions about Section 17.072.090(H)(10), the feasibility of implementation, who becomes the holder of the easement, and maintenance of the easement.
- Section 17.072.090(H)(14) and the desire for flexibility in terms of the location and configuration of parking.
- Section 17.072.090(H)(14)(a) and the opinion that three parking spots for a tiny house is too many.
- Section 17.072.090(H)(14)(b) and the suggestion that this should be one guest parking space.
- Section 17.072.090(H)(4) and the suggestion to limit it to 2,500 square feet and strike the 10% bonus.
- Question about Section 17.072.090(H)(3)(b) and what this is trying to achieve.
- Questions about Section 17.072.090(H)(9), and (9)(b) and a suggestion to strike the last sentence. Opposition to a zero lot line was expressed.
- Section 17.072.090(H)(10) should include a requirement for replacement of trees and tree coverage.
- Question about Section 17.072.090(H)(11) and if this is an exhaustive list.
- Question about Section 17.072.090(H)(13), why this is included, what are the requirements, and how it fits in with the total amount of building space.
- Question about Section 17.072.110(E) and the use of the word “harmonizes”. This should be rephrased.
- Question about Section 17.072.110(A) and what “objective subdivision standards” are.
- Section 17.072.080(C)(6), and (J) should reference the standards used in the Ridgeline Ordinance.
- Section 17.072.030 should include a reference to the Town Council.
- Alter or omit lot configurations referenced in Section 17.072.090(H)(3)(a).
- Section 17.072.090(H)(5) is unacceptable and puts a burden on the Fire Chief. There should be some criteria to support the decision.
- Section 17.072.090(H)(7)(a) should not designate the type of foundation system used.
- Section 17.072.090(H)(7)(b) is too prescriptive.
- Section 17.072.090(H)(3)(e) could be deleted.
- Section 17.072.090(H)(8) is desirable and should be applied universally.
- Concerns about impacts to traffic; an increase in the underlying density; evacuations and ingress/egress; if community amenities would be reasonable for some sites; the 75% dedicated Open Space; creating more units; parking, the streetscape, and the public good; flag parking; the term “lot” vs. “parcel”; if this would increase overall density; impacts to Planned Development

District (PDD) Zones; the code has historically been unfairly applied on occasion; color as an objective standard.

The Commission made the following comments regarding Chapter 17.124, UR Upland Residential Zone:

- Section 17.124.040(D), the word “or” should be deleted.
- Questions about this Chapter, the Map in Attachment C, and applicability.

The Commission made the following comments regarding Attachment C, the Map:

- Question about how the measurements were done and if existing data was used.
- Where the ridgelines terminate.

Planning Director Beiswenger thanked the Commission for the comments and stated staff and the consultants have some work to do and will return with a response.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, OCTOBER 19, 2023

Call to Order/Roll Call:

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

Commissioners Present: John Bela  
Robert Jansen  
Mimi Newton  
Cindy Swift (Chair)

Commissioners Absent: Philip Feffer  
Brett Kelly

Staff Present: Jeffrey Beiswenger, Planning Director  
Linda Neal, Principal Planner  
Kara Spencer, Assistant Planner

#### **APPROVAL OF AGENDA**

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

AYES: Bela, Jansen, Newton, Chair Swift

ABSENT: Feffer, Kelly

#### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

#### **CONSENT CALENDAR**

There were no Consent Calendar items.

#### **PUBLIC HEARING ITEMS**

- 1. 40 Manzanita: Application #23-29  
Request for a Variance to construct a second driveway and parking area  
AP# 002-011-08; RS 6, Single-Family Residential Zone; Selander Architects, architect;  
Kathryn and Hieronymous Axelson, owners; CEQA categorically exempt per Section  
15301(a)**

Assistant Planner Spencer presented the staff report. She answered questions from the Commission regarding whether staff received any written responses from the neighbors, if the construction conditions are for the paving of the driveway; if the stairs lead to another pathway; if the retaining wall existed at the time of the September 2022 application for this parcel; the "permit issued" date on the drawings; the process for a second driveway on a sloped lot; other methods for retaining walls; if the area where the cars are parked should be impermeable.

Chair Swift opened the Public Hearing.

Mr. Axelson made the following comments:

- He could leave or remove the stairway. There is a dead end at the top of the stairs.
- It would have been smart to include the parking in the first process but they did not consider the location of the JADU.
- He does not remember when the retaining wall was built. It did not require engineering.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- He does not see a problem with the “after the fact” issue.
- Reworking the plan to avoid the need for a Variance would make it worse.
- This is an odd piece of property. He can make the Variance Findings.
- He could approve the project with the condition that the gravel is pushed back a bit.

Commissioner Bela provided the following comments:

- He was concerned about setting a precedent for building and excavating without pursuing the process.
- It is a benefit to have cars off the street.
- He could support the application.

Chair Swift provided the following comments:

- She does not recall seeing this retaining wall before.
- She is concerned about the permanence of the wall; the gravel coming down onto Mt. View and Manzanita; safety at that corner.
- She had trouble making the findings.

Commissioner Newton provided the following comments:

- She referred to the safety issue and stated she would not want to see any bushes behind the mailboxes.
- This is probably the best spot for the driveway.
- The drainage off of the property should not increase due to the driveway. This could be a Condition of Approval.
- She referred to the resolution, page 2, Finding #3 and stated it should be stronger.

M/s, Newton/Jansen, motion to adopt Resolution No.2023-28 with the insertion of the language in the staff report, page 3, third paragraph into Finding #3.

AYES: Bela, Jansen, Newton, Chair Swift

ABSENT: Feffer, Kelly

Chair Swift stated there is a 10-day appeal period.

## **2. 91 Porteous Avenue; Application #23-31**

**Request for a Conditional Use Permit and Variances to legalize an unpermitted garage and expanded driveway for an existing single-family residence; AP # 002-082-18; RD 5.5-7 Residential Zone; Scott Valentino, owner/applicant; CEQA categorically exempt per Section 15301(e) and 15304(a)**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding whether smoke detectors, carbon monoxide detectors, and address numbers are required for everything; if the garage would require a sprinkler system.

Chair Swift opened the Public Hearing.

A resident made the following comments:

- He lives across the street.
- The construction is aesthetically pleasing.
- He appreciated the off-street parking.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She loved the effort to save the tree.
- She was sorry the work started before the “I”s were dotted and “T”s were crossed.
- There were a couple of typos in the resolution.

Commissioner Jansen provided the following comments:

- There are similar solutions along the street.
- Construction prior to obtaining permits is not a good thing.
- He could approve the project.

M/s, Jansen/Bela, motion to adopt Resolution No. 2023-30 with the corrections to the typos.

AYES: Bela, Jansen, Newton, Chair Swift

ABSENT: Feffer, Kelly

Chair Swift stated there is a 10-day appeal period.

- 3. 16 Cascade Drive; (APN 003-202-05), 284 Forrest Avenue (APN 002-143-29); 185 Tamalpais Drive (APN 001-053-17), 1738 Sir Francis Drake Blvd. (AP#001-236-82) 1 Shemran Ct. (APN 174-111-84); Application #23-30 Encroachment Permits to install ground mounted, battery backup, cabinets in the public rights-of-way to house emergency backup systems for Comcast power sources mounted on existing utility poles in compliance with California Public Utilities Commission regulations requiring communication emergency backup systems providing 72 hour service emergency service after natural disasters/weather events. Applicant; Comcast; CEQA categorically exempt per Sections 15301(b) & 15302(c)**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding the purpose of the backup; if there are concerns about dig up the road during the winter.

Chair Swift opened the Public Hearing.

Mr. Billy Glisson, representing Comcast, made the following comment:

- They would be happy to answer questions.

Mr. Glisson and Mr. Bottari answered questions regarding removal of guide wires on poles; the PG&E meter on the Wood Lane pole; the equipment on Shemran Court.

Mr. Dane Padenoff, 16 Cypress Drive, made the following comments:

- He would like to discuss the location with Comcast.
- He sees several problems.

Principal Planner Neal cited Condition #7 that pertains to this request.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- He referred to 16 Cypress Drive and noted the cabinet is pushed away from the curb.
- The way it is drawn would not work. The accessible pathway should be in the back and not on the curb side.
- The cabinet should be closer to the curb.

Commissioner Newton provided the following comment:

- She noted a typo in the resolution.

Principal Planner Neal suggested the addition of Condition of Approval #8: The cabinet on Sir Francis Drake Boulevard behind 1 Shemran Court shall be located as close to the existing equipment as possible and shall be screened by some kind of lattice or planting material, to be approved by the Planning Director..

M/s, Jansen/Bela, motion to adopt Resolution No. 2023-29 with the addition of Condition of Approval #8: The cabinet on Sir Francis Drake Boulevard behind 1 Shemran Court shall be located as close to the existing equipment as possible and shall be screened by some kind of lattice or planting material, to be approved by the Planning Director, and correction of the typo.

AYES: Bela, Jansen, Newton, Chair Swift

ABSENT: Feffer, Kelly

Chair Swift stated there is a 10-day appeal period.

## **Minutes**

6. Review and approval of the minutes from the August 17, 2023 and September 14, 2023 meetings

M/s, Jansen/Newton, motion to approve the August 17, 2023 as corrected and the September 14, 2023 minutes as submitted.

AYES: Bela, Jansen, Newton, Chair Swift

ABSENT: Feffer, Kelly

## **Planning Director's Report**

Planning Director Beiswenger reported the November 16<sup>th</sup> Commission meeting includes public comment on the Draft EIR for the Housing Element, and a Study Session on the Work Force Housing Overlay,

## **Commissioner Comments and Requests**

Chair Swift asked if the administrative zoning changes suggested by the Commission were presented to the Council.

Commissioner Newton asked the Planning Director to reach out to the Open Space Committee about the Zoning Amendments for Low Impact Clustering Residential Development.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 8:37 p. m.

Respectfully submitted,  
Toni DeFrancis,  
Recording Secretary