

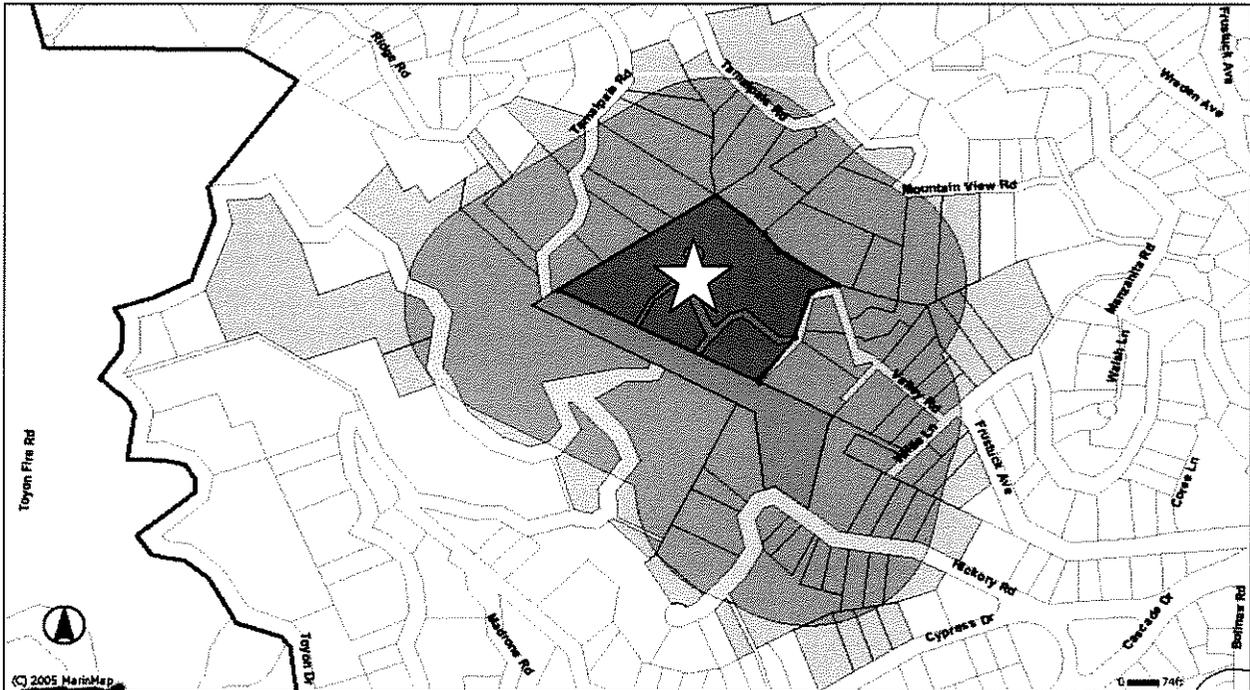
**TOWN OF FAIRFAX  
STAFF REPORT**

**TO:** Mayor, and members of the Town Council

**DATE:** March 7, 2012

**FROM:** Michael Rock, Town Manager *MR*  
Jim Moore, Director of Planning & Building Services  
Linda Neal, Senior Planner

**SUBJECT:** 62 Valley Road; Application # 11-29, Appeal of Design Review Board approval of a 2,696 square foot single-family residence; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02; Residential Single-family RS 6 Zone District; Rochelle Ereman and Charles and Sherrie Richardson, appellants; Frances Kibbe, owner; CEQA categorically exempt, § 15303(a)



**62 VALLEY ROAD**

## **RECOMMENDATION**

1. Open the public hearing.
2. Close the public hearing.
3. Motion to uphold the approval of the project by the Design Review Board.

## **BACKGROUND**

On October 28, 2009 a fire tragically destroyed the Kibbe family home that had been on that site. Town records are limited regarding the original size of the home or the size of the home at the time of the fire; however an old site plan shows a residence of 774 square feet with a proposed addition of 404 square feet (date unknown); and there is also a record of two other additions over the years, a 192 square footage addition in 1962 and a 108 square foot addition in 1972 (all totaling an approximately 1,478 square foot single family home when the fire occurred that destroyed it).

County tax records indicate that the house was 1,964 square feet in size at the time of its destruction. Please note that the remnants of the damaged structure have yet to be demolished or removed from the site.

On March 2, 2011 the project Architect submitted a planning application with fees for a HRD permit and design review; along with a deposit for the Town's Civil Engineer's review. Subsequently, on June 20, 2011 after staff determined the amount of cut and fill, the project Architect submitted a planning application for a Grading permit.

Subsequently, the planning application and materials submitted went through a series of reviews by staff, outside agencies, and the Town's Civil Engineer for "completeness" and as of October 6, 2011 staff determined that the application had failed to provide the necessary information to satisfy code requirements to deem this application "complete". Under state law and the Town Code, an application must be complete before it is referred to the planning commission. On October 6, 2011 the applicant filed an appeal with the Town challenging staff's determination that the application was incomplete. The Town delayed scheduling the appeal before the Council during ongoing discussions about ways to resolve the appeal in the hope of resolving the completeness issues. Unfortunately, as staff was preparing for the appeal hearing that had been scheduled for December 7, 2011, it came to the Town's attention under Government Code section 65943, too much time had elapsed and the application was deemed complete by operation of law as of December 6, 2011.

On January 19, 2012, the Planning Commission considered and approved the project based on the findings and subject to the conditions contained in attached Resolution Number 12-01 (Exhibit A attached). The minutes from the Planning Commission meeting are contained in Exhibit B.

On February 8, 2012, the Design Review Board approved the project subject to the following conditions:

1. This approval is limited to the development illustrated on the plans prepared by Jeff Kroot

dated February 2011, pages 1 through 4 and the Vegetative Management plan, based on the Record of survey by Lawrence Doyle dated January 2011, the engineering drawing by Lawrence Doyle, pages C-1 (dated 8/22/11), and pages C-2, C-3 and C-4 (dated 12/22/11) and discussed in the following project engineering reports and letters by Salem Howes Associates Inc., dated February 4, 2011 and June 16, 2011.

2. The applicant shall secure a tree cutting permit from the Town prior to removal of any on-site trees over 24 inches in circumference measured 24 inches from the ground. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water, drainage) which incorporates the services of a licensed arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation, or trenching operations. In particular, any cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation, and diversion dams. Any trimming of trees shall be supervised by a licensed arborist.

3. Prior to issuance of an occupancy permit the Planning Department shall field check the completed project to verify compliance with all design review and planning commission conditions.

4. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Hill Area Residential Development Permit 11-29. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Hill Area Residential Development Permit 11-29 will result in the job being immediately stopped and red tagged.

5. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

Also see attached Exhibit B which includes the February 8, 2012 design review minutes, the February 8, 2012 design review staff report and its attachments.

## **DISCUSSION**

On January 25, 2012, an appeal was filed by Rochelle Eremann of 51 Mountain View Road, and Charles and Sherrie Richardson of 267 Tamalpais Road. The stated reason for the appeal is the maintenance of existing privacy. Their appeal is attached as Exhibit C.

Under Section 17.026.110 of the Town Code, a person aggrieved by an action of the Design

Review Board where the project also includes a Planning Commission approval may appeal to the Town Council. Under Section 17.026.120, "in considering the appeal, the Town Council shall determine whether the proposed design conforms to the applicable design review criteria and may approve or disapprove the proposed design or require the changes therein or impose reasonable conditions of approval as are, in its reasonable judgment, necessary to ensure conformity to the criteria.

## **ATTACHMENTS**

Exhibit A – Resolution No. 12-01, Findings and Conditions of Planning Commission approval

Exhibit B – Minutes and staff report from the February 8, 2012 Design Review meeting

Exhibit C – Appellant's appeal form and additional information

RESOLUTION NO. 12-01  
APPLICATION NO. 11-29

TOWN OF FAIRFAX PLANNING COMMISSION  
STATE OF CALIFORNIA

62 Valley Road; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02

WHEREAS, the Town of Fairfax has received an application for 62 Valley Road to construct a 2,696 square foot single-family residence; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing at which time all interested parties were given a full opportunity to be heard and to present evidence; and

Whereas the project is Categorically Exempt from the Environmental Quality Act (CEQA) pursuant Section 15303(a), One single-family residence in a residential zone, Class 3, of the Public Resources Code (CEQA). This exemption allows for the construction of new small structures in an urbanized area; and

WHEREAS, the applicant has met the burden of proof required to support said application for Planning Commission approval, and the following findings have been determined:

1. The proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of the Hill Area Residential Development Ordinance as follows:

**Goal 4.1.2: All new development shall be required to preserve some of the natural landscape.**

The project preserves the most of the trees on the site.

**Goal 5.1.0: The basic goal of the Town of Fairfax in adopting the Environmental Safety Element is to prevent loss of life, to reduce injuries and property damage and to minimize economic and social dislocations which may result from earthquakes, other geologic hazards, fires and floods.**

The Town Engineer, based on a significant body of engineering information and architectural plans as described above, has determined that plans can be developed for a fire access roadway to the proposed house location and the project can be designed and built in a manner that will prevent loss of life, reduce injuries and minimize property damage and dislocations from earthquakes or other geologic hazards, fires and floods.

**Goal 5.7.0: It is the goal of the Town of Fairfax to reduce height levels of risk in fire prone areas.**

The project site is located within the Wildland-Urban Interface zone which is prone to wildfires. The project incorporates the development of a fire truck turn-out and will include fire access improvements, subject to review and approval by the Ross Valley Fire Department and the Town Engineer, that will improve emergency access within the site where it currently is severely substandard.

The project incorporates plans for an improved water supply to the site and installation of a fire suppression system for the residence.

**Goal 5.9.0: It is the goal of the Town of Fairfax to minimize flooding in areas prone to inundation.**

The project includes the construction of a drainage improvements including catch basins and water dissipater drains storm run-off retention basin to ensure that excessive run-off onto Valley Road or the neighboring properties does not occur.

2. The Town Engineer has reviewed the project plans, topographic and boundary survey information, the hydrology and geologic reports and other miscellaneous engineering information and has determined the following:

- The health safety and welfare of the public will not be adversely affected by the development;
- Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
- Adjacent properties are adequately protected by project design from drainage, seismic and erosion problems as a result of the work;
- ~~The 600 cubic yards of excavation and fill necessary to construct the residence, fire turn-around and access drive and the required on-site parking on this up-slope lot is the minimum necessary to allow the owners use of their property.~~

4. Construction of the residence will require the removal of 15 Bay trees and two oak tree but most of the trees on the site which is a little over 3 acres will be retained. Therefore, the natural landscaping will not be removed by the project more than is necessary;

5. Town Code § 17.072.090(C)(4) prohibits grading during the rainy season from October 1<sup>st</sup> through April 1<sup>st</sup>. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

6. The project provides two on-site parking spaces and a guest parking space in the level area at the driveway of the fire access roadway as required by Town Code §§ 17.052.(A)(1) and (2). The project also includes a fire-truck turn out to improve emergency vehicle access to the site and the surrounding Valley Road neighborhood. Therefore, vehicular access and parking are adequate.

**NOW, THEREFORE,** the Planning Commission of the Town of Fairfax does hereby resolve as follows:

**Section 1.** After careful consideration of the site plan, architectural drawings, plans and other exhibits submitted in connection with this matter, approval of the application by Frances Kibee for a single-family residence and fire access and water supply improvements is hereby granted subject to the following conditions:

**Planning Conditions:**

1. The driveway improvements and water supply must be completed and approved by the Ross Valley Department and Town Engineer before any combustible materials are delivered to the site (Exhibit A - California Fire Code §501.4, Timing of Installation, and Ross Valley Fire Department Memorandum dated 9/8/11).
2. The driveway plans must be signed and stamped by the project Civil Engineer prior to the issuance of the building permit and must be accompanied by a signed and wet stamped letter indicating that the improvements have been designed to support 40,000 gross vehicle weights (Exhibit A – Ross Valley Fire Department memorandum dated 9/8/11).
3. The driveway plans shall be subject to approval by the Town Engineer prior to issuance of the building permit.
4. Once the driveway improvements are completed the Civil Engineer shall submit a signed a wet stamped letter indicating that the driveway was designed per the approved plans and to their specifications.
5. The improvements shall be subject to a final inspection and approval by the Town Engineer as complying with the approved plans.
6. Submit guard rail details for the safety railing that will be required for areas of the road if drop offs exceed 30 inches in height as required by the building code.
7. Prior to issuance of the building permit the applicant shall provide the Town with a recorded copy of the merger notice merging the two parcels that make up the site into one.
8. Prior to issuance of the building permit the owner shall sign and record a deed restriction indicating that the residence shall be used as a single-family residence and shall have only one kitchen and the unimproved, 384 square foot lowest level shall remain unimproved and non-habitable space.
9. This approval is limited to the development illustrated on the plans prepared by Jeff Kroot dated February 2011, pages 1 through 4 and the Vegetative Management plan, based on the Record of survey by Lawrence Doyle dated January 2011, the engineering drawing by Lawrence Doyle, pages C-1 (dated 8/22/11), and pages C-2, C-3 and C-4 (dated 12/22/11) and discussed in the following project engineering reports and letters by Salem Howes Associates Inc., dated February 4, 2011 and June 16, 2011.
10. Prior to issuance of a building permit the applicant or his assigns shall:
  - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
    - Construction delivery routes approved by the Department of Public Works.
    - Construction schedule (deliveries, worker hours, etc.)
    - Notification to area residents
    - Emergency access routes

b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).

c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a bond or letter of credit equaling 100% of the estimated construction costs.

d. The foundation and retaining elements shall be designed by a civil engineer or structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the civil engineer or structural engineer and submitted to the satisfaction of the Town Engineer.

e. The geotechnical engineer shall provide the Town with a signed and wet stamped letter indicating that the grading, foundation, retaining, and drainage elements comply with the recommendations he made in his original soils report dated February 4, 2011.

f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.

g. The applicant shall secure a tree cutting permit from the Town prior to removal of any on-site trees over 24 inches in circumference measured 24 inches from the ground. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water, drainage) which incorporates the services of a licensed arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation, or trenching operations. In particular, any cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation, and diversion dams. Any trimming of trees shall be supervised by a licensed arborist.

h. Submit three copies of the recorded record of survey with the building permit submittal.

i. Pruning should be conducted during the winter which trees are dormant for deciduous species and July-August for evergreen species.

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

a. The geotechnical engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the civil engineer or geotechnical engineer, and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.

c. The building official shall field check the concrete forms prior to the pour.

d. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.

e. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

12. Prior to issuance of an occupancy permit the following shall be completed:

a. ~~The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.~~

b. The Town Engineer shall field check the completed project to verify that the work has been installed as per approved plan.

c. The Planning Department shall field check the completed project to verify that all design review and planning commission conditions have been complied with including , if applicable, installation of landscaping and irrigation.

13. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

14. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.

15. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."

16. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, *any* changes, modifications, additions or alterations made to the approved set of plans will require a modification of Hill Area Residential Development Permit 11-29. *Any* construction based on job plans that have been altered without the benefit of an approved modification of Hill Area Residential Development Permit 11-29 will result in the job being immediately stopped and red tagged.

17. Any damages to Valley Road resulting from construction activities shall be the responsibility of the property owner. The owner or contractor shall videotape or otherwise document as approved by the Public Works Director the existing condition of the roads in the vicinity of the site prior to starting construction of the residence. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.

18. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

19. Should the Ross Valley Fire Department, Ross Valley Sanitary District or Marin Municipal Water District modify any of their conditions, the conditions below shall be amended as long as they do not conflict with Fairfax Town Codes or the California Building Code, 2010.

**Ross Valley Fire Department Conditions:**

1. Access improvements and water supply improvements must be constructed and approved prior to delivery of any combustibles to the site for construction.
2. The project must meet the requirements of Chapter 7A of the California Building Code and the 2006 Wildland-Urban Interface Code.
3. The minimum driveway/fire access width shall be no less than 12 feet in the straights and 14 feet through the curves.
4. The minimum turning radius for the access drive shall be 27 feet.
5. The driveway shall be constructed with an all weather surface capable of supporting 40,000 gross vehicle weights and an engineered stamped plan sheet acceptable to the Town Engineer shall be provided prior to issuance of the building permit.
6. Grades up to and including 18% may be of A/C paving. Grades greater than 18% shall be of concrete curb-cut so as to allow for water run-off and traction.
7. The driveway and turn around shall be designated and be posted as a Fire Lane and parking is not allowed within the required clearance widths or turn-around area in accordance with Ross Valley Fire Department Standard # 204.
8. Grading shall extend a minimum of 6 feet beyond the paved portion of the turnaround as shown on the plans.

9. Flammable and combustible vegetation shall be removed within 10 feet of driveways on easements and the project property only. Vegetation may be removed from neighboring properties only after obtaining permission from the property owner.

10. A fire protection system shall be installed which complies with the requirements of the National Fire Protection Association 13-D and as modified in the approved alternate materials request. A Separate deferred permit is required for this system. A modified 13-D system has been approved by the Fire Chief as an alternate to relocating or addition an additional fire hydrant however the existing hydrant body will need to be upgraded per Section 508.5.1 of the Fire Code.

(For a full text of the Fire Department's conditions see Exhibit D, Revised memorandum from the RVFD dated January 9, 2012).

#### **Marin Municipal Water District Conditions**

1. The applicant must comply with the District's Water Conservation Ordinance 414.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

#### **Sanitary District (Exhibit F)**

A new sewer connection will be required for the new residence. The cost will be based on the number of fixtures. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

#### **Outstanding Engineering Bills**

The applicant shall pay the outstanding engineering bills and administrative processing costs prior to issuance of the building permit. Engineering bills and administrative costs incurred during the building permit review and construction of the project shall be paid in full prior to issuance of the occupancy permit.

**PASSED AND ADOPTED** by the Town of Fairfax Planning Commission, State of California, this 19<sup>th</sup> day of January, 2012 by the following roll call vote:

**AYES:** Hall, Kehrlein, Ketcham, Lamotte, Lacques, Chair Hamilton  
**NOES:**  
**ABSTAIN:**

\_\_\_\_\_  
Chair Hamilton, Planning Commission

**ATTEST:**

\_\_\_\_\_  
Jim Moore, Director of Planning and Building Services

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant, and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform to and comply with said terms and conditions within the recommended time frames approved by the City Planning Commission.

\_\_\_\_\_  
Frances Kibbe, Property Owner

\_\_\_\_\_  
Date

**DRAFT** Town of Fairfax Design Review Board Meeting Minutes  
Fairfax Town Hall  
Wednesday, February 8, 2012

Call to Order/Roll Call:

**BOARD MEMBERS PRESENT:** Bay Bakowski  
Jonathan Bornstein  
Mallory Geithem  
Karl Vavrek

**STAFF PRESENT:** Linda Neal, Senior Planner  
Joanne O'Hehir, Minutes-Secretary

Senior Planner Neal called the meeting to order at 7.30 p.m.

M/S, Vavrek/Bakowski, Motion to elect Board Member Geithem as Chair.

AYES: All

Approval of the Agenda

M/S, Vavrek/Bornstein, motion to approve the Agenda as presented.

AYES: All

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

No one from the public stepped forward to speak.

**REGULAR AGENDA**

1. 62 Valley Road; Application # 11-29: Request for design review approval of a 2,696 square foot single-family residence; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02; Residential Single-family RS 6 Zone District; Jeff Kroot, Architect/Applicant; Frances Kibbe, owner; CEQA categorically exempt, §15303(a).

Senior Planner Neal presented the staff report. She noted that site disturbance would be minimal and that trees needed to be removed to allow road access. Ms. Neal explained that the Board Members needed make the findings that the design met the town's criteria and she discussed the reasons that staff believed the design was in compliance with town regulations. Ms. Neal noted that staff therefore recommended approval of the project based on this compliance and the findings and conditions set out in the staff report.

In response to Board member Vavrek, Ms. Neal noted that the structure would be built some distance from the ridgeline.

**EXHIBIT # B**

Jeff Kroot, project architect, discussed the background of the project. He noted that the original house had burnt down and that the new house would be similar in size and would be built on the same location as the original home. He did not believe that the location and design would affect the privacy of neighboring properties, particularly because the lot was large. He said that the design was compact and energy efficient, and that the colors blended in with the surroundings. He noted that bay trees needed to be removed to comply with the requirements of the Fire Department. Mr. Kroot noted that landscaping would be minimal in order to reduce fire hazards.

Mr. Kroot and Chair Geitheim discussed the size of the house.

Mr. Kroot and Board Member Vavrek discussed the storage space with French doors that led on to a patio.

Chair Geitheim opened the public comment period.

Rochelle Ereman and Steve Fisch, Mountain View, expressed their concern that their back decks would have a direct view into the new house, whereas the previous structure had been hidden by foliage.

Charles Richardson, Tamalpais, discussed his concern that the new house would be exposed in comparison to the previous structure. He also discussed his concern that more trees were scheduled to be felled, which could expose the new structure even more.

In response to Mr. Richardson, Mr. Kroot said he did not know the status of tree cutting. However, he said that the Fire Department had required certain trees to be removed. Mr. Richardson requested that the trees be replaced with more suitable varieties if the house proved to be too exposed.

Mr. Kroot said that acacias and oak trees would not be removed and he believed that his client would be willing to discuss additional planting to provide screening.

Mr. Kroot noted that that the views from the new house were not designed to look towards the neighboring properties, but to take advantage of the views beyond the driveway and that they never intended anyone to look in their direction. Mr. Kroot noted that the distance between Ms. Ereman's and Mr. Fisch's property and his client's property was approximately 300 feet.

Chair Geitheim closed the public comment period.

Board Member Vavrek said that replanting trees would not solve the neighbors' view problems in a short time and that Fairfax did not have a view ordinance. He suggested that the neighbors consult the site plan where the trees slated for removal were marked on the plans.

Chair Geitheim said that the neighbors would get used to the new house and that it would not obstruct their views.

M/s, Bornstein/Vavrek, Motion to approve Application # 11-29, a request for design review approval of a 2,696 square foot single-family residence at 62 Valley Road.

AYES: All

Chair Geitheim read the appeal rights.

2. 34 Pacheco Avenue; Application # 11-27: Request for design review approval of a 1,059 square foot, two-story, addition to a 1,263 square foot single-family residence; Assessor's Parcel No. 002-123-06; Residential Single-family RD 5.5-7 Zone District; Gregory Iboshi, Huang Iboshi Architecture, Architects/applicants; John and Lorna Kirk, owners; CEQA categorically exempt, §15301(e) and § 15305(a).

Senior Planner Neal presented the staff report. She discussed the Planning Commissioners' concerns about enclosing the car port and the Deed Restriction. Ms. Neal noted that staff recommended approval of the project for the reasons laid out in the staff report.

Greg Iboshi, architect, used the plans to discuss the addition and trellis.

Board Member Bornstein said that he liked the project.

M/s, Vavrek/Bronstein, Motion to approve a Request for design review approval of a 1,059 square foot, two-story, addition to a 1,263 square foot single-family residence at 34 Pacheco Avenue.

AYES: All

Chair Geitheim read the appeal rights.

### **APPROVAL OF MINUTES**

3. Minutes from the December 14, 2011 meeting.

M/s, Vavrek/Bakowski, Motion to approve the minutes of December 14, 2011, with the addition of the name of the member of staff who wrote the minutes.

### **DISCUSSION ITEMS**

None.

### **BOARD MEMBER COMMENTS AND REQUESTS**

None.

## **ADJOURNMENT**

A motion was made, seconded and approved to adjourn the meeting at 8.30 p.m.

Respectfully submitted,

Joanne O'Hehir



## **BACKGROUND**

On October 28, 2009 a fire tragically destroyed the owner's family home at 62 Valley Road. The owner is going through the application process to construct a new residence which requires the review and approval of the Design Review Board per Town Code § 17.020.030.

The Commission approved a Hill Area Residential Development Permit and Excavation Permit for the project at their January 19, 2012 meeting subject to the conditions set forth in the attached Resolution No. 12-01 (Exhibit A). The minutes from that meeting are attached as Exhibit B.

## **DISCUSSION**

The project site is 132,700 square feet (or approximately 3.05 acres) in size and is steeply sloped with an antiquated narrow driveway that begins at the end of Valley Drive and winds up to the more level area where the destroyed house was located – and where the new 2,696 square foot residence is being proposed.

The applicant is proposing to construct a three bedroom, 2 ½ bath single family residence with the first floor of the house containing 384 square feet of "unfinished" space which labeled "unimproved" in the plans although it includes French doors leading to an outdoor patio and it is internally connected with the second floor above. Including this area on the plans in the square footage calculations makes for a new structure of 2,969 square feet replacing what our records indicate was a 1,478 square foot home before it burned down. The second floor would include three bedrooms, two full bathrooms a laundry room and a "sleeping" porch as well as a separate access and egress to the rear of the property. The third level would contain a living room, dining room, kitchen half bath, a "bonus" room, entryway and pantry.

The property is so large that staff feels that the visual impact of the structure on neighboring properties will be minimal. Nonetheless, the neighbors at 51 Mountain View Road have indicated that the residence will have an impact on their view and they will be able to see into the proposed living room windows and front deck (Exhibit C – letter from Rochelle Ereman and Steve Fisch). The staff has printed out topographic information from Marin Map, Marin County's GIS program, which shows that the new residence will be over 300 feet away and 90 feet lower on the hillside than 51 Mountain View (Exhibit D). Fairfax is an incorporated urban community and it does not have any view ordinances that restrict development just on the basis that the roof or other limited portions of the structure might be visible from neighboring properties.

### **Site Disturbance**

Disturbance of the site will be limited to the areas where the driveway will be widened and where the fire truck turnaround will be located. The new residence will be located in basically the same location as the previous residence on an existing level bench area.

### **Tree Removal**

No trees will need to be removed to construct the residence or widen the driveway but 15 bays trees and 3 oak trees will need to be removed to comply with defensible space requirements of

the Ross Valley Fire Department. The site is heavily wooded so the removal of these trees will not have a significant impact on the site.

### **Design Review Criteria**

In order to approve a project the Board must be able to find the proposal in compliance with the Design Review Criteria contained in Town Code § 17.020.040.

The structure will be located on the two existing benches where the damaged structure currently exists. It will step up the hillside with the third uppermost level set back on the upper bench from the first lower levels of the structure.

The structure is situated on the site of the existing fire damaged residence and therefore, the only significant disturbance to the site will be in the areas where driveway improvements and new supply lines will be constructed.

The varied roof lines, exterior decks and windows articulate the exterior of the structure so as to avoid monotony in the exterior appearance of the building.

The site will be retained in its native state with only trees and brush removed as required by the Ross Valley Fire Department to comply with their Vegetative Management (VMP) Plan.

As indicated above, the project site is 132,700 square feet (or approximately 3.05 acres) in size and the new residence will be 2,696 square foot in size. Therefore, the residence is not out of proportion with the site.

There is no one distinct architectural style found in the Fairfax Manor neighborhood where the property is located. The proposed design does not conflict with other types of architecture found throughout the neighborhood.

The driveway will be constructed to the standards required by the Town Engineer and the Ross Valley Fire Department and will also provide access to the proposed residential parking.

The siding will be horizontal natural stained cedar siding, the trim will be painted dark brown and the roof will be dark bronze standing seam metal roofing. A cut stone facing will be applied to the walls on either side of the entry stairway and the walls around the patio located off the storage room on the lowest level of the residence.

### **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 11-29 based on the following findings and subject to the following conditions:

- The project site is 132,700 square feet (or approximately 3.05 acres) in size and the new residence will be 2,696 square foot in size. Therefore, the residence is not out of proportion with the site.
- The design of the structure has balance and unity among its external features and presents a harmonious external appearance.
- The proposed development shall be of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.
- The access drive will comply with Town Code and Ross Valley Fire Code standards and will also provide access to the residential parking. Therefore, access and egress to and from the site and the on-site parking is adequate and will not negatively impact the surrounding neighborhood and/or traffic on adjacent Valley Road.
- The roof lines of the residence have been varied and the exterior has been articulated with exterior decks and windows of various sizes and shapes. Therefore, sufficient variety exists in the design of the structure to avoid monotony in external appearance.
- The proposed design fits in with the many other architectural styles found throughout the neighborhood.
- The horizontal siding, color palette, stone wall facing and exterior articulation minimizes the visual mass of the three story structure.

## RECOMMENDED CONDITIONS

1. This approval is limited to the development illustrated on the plans prepared by Jeff Kroot dated February 2011, pages 1 through 4 and the Vegetative Management plan, based on the Record of survey by Lawrence Doyle dated January 2011, the engineering drawing by Lawrence Doyle, pages C-1 (dated 8/22/11), and pages C-2, C-3 and C-4 (dated 12/22/11) and discussed in the following project engineering reports and letters by Salem Howes Associates Inc., dated February 4, 2011 and June 16, 2011.
2. The applicant shall secure a tree cutting permit from the Town prior to removal of any on-site trees over 24 inches in circumference measured 24 inches from the ground. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water, drainage) which incorporates the services of a licensed arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation, or trenching operations. In particular, any cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation, and diversion dams. Any trimming of trees shall be supervised by a licensed arborist.
3. Prior to issuance of an occupancy permit the Planning Department shall field check the completed project to verify compliance with all design review and planning commission conditions.

4. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, **any** changes, modifications, additions or alterations made to the approved set of plans will require a modification of Hill Area Residential Development Permit 11-29. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Hill Area Residential Development Permit 11-29 will result in the job being immediately stopped and red tagged.

5. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

#### **Outstanding Engineering Bills**

6. The applicant shall pay the outstanding engineering bills and administrative processing costs prior to issuance of the building permit. Engineering bills and administrative costs incurred during the building permit review and construction of the project shall be paid in full prior to issuance of the occupancy permit and/or connection of any permanent gas or electric utilities.

#### **ATTACHMENTS**

Exhibit A – Planning Commission Resolution No. 12-01

Exhibit B – Minutes from the 1/19/12 Planning Commission meeting

Exhibit C – Letter from the owners of 51 Mountain View Road

Exhibit D – Parcel map and topographic map depicting the relationship between the project site and 51 Mountain View Road

Exhibit E – supplemental design review information

RESOLUTION NO. 12-01  
APPLICATION NO. 11-29

TOWN OF FAIRFAX PLANNING COMMISSION  
STATE OF CALIFORNIA

62 Valley Road; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02

WHEREAS, the Town of Fairfax has received an application for 62 Valley Road to construct a 2,696 square foot single-family residence; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing at which time all interested parties were given a full opportunity to be heard and to present evidence; and

Whereas the project is Categorically Exempt from the Environmental Quality Act (CEQA) pursuant Section 15303(a), One single-family residence in a residential zone, Class 3, of the Public Resources Code (CEQA). This exemption allows for the construction of new small structures in an urbanized area; and

WHEREAS, the applicant has met the burden of proof required to support said application for Planning Commission approval, and the following findings have been determined:

1. The proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of the Hill Area Residential Development Ordinance as follows:

**Goal 4.1.2: All new development shall be required to preserve some of the natural landscape.**

The project preserves the most of the trees on the site.

**Goal 5.1.0: The basic goal of the Town of Fairfax in adopting the Environmental Safety Element is to prevent loss of life, to reduce injuries and property damage and to minimize economic and social dislocations which may result from earthquakes, other geologic hazards, fires and floods.**

The Town Engineer, based on a significant body of engineering information and architectural plans as described above, has determined that plans can be developed for a fire access roadway to the proposed house location and the project can be designed and built in a manner that will prevent loss of life, reduce injuries and minimize property damage and dislocations from earthquakes or other geologic hazards, fires and floods.

**Goal 5.7.0: It is the goal of the Town of Fairfax to reduce height levels of risk in fire prone areas.**

The project site is located within the Wildland-Urban Interface zone which is prone to wildfires. The project incorporates the development of a fire truck turn-out and will include fire access improvements, subject to review and approval by the Ross Valley Fire Department and the Town Engineer, that will improve emergency access within the site where it currently is severely substandard.

The project incorporates plans for an improved water supply to the site and installation of a fire suppression system for the residence.

**Goal 5.9.0: It is the goal of the Town of Fairfax to minimize flooding in areas prone to inundation.**

The project includes the construction of a drainage improvements including catch basins and water dissipater drains storm run-off retention basin to ensure that excessive run-off onto Valley Road or the neighboring properties does not occur.

2. The Town Engineer has reviewed the project plans, topographic and boundary survey information, the hydrology and geologic reports and other miscellaneous engineering information and has determined the following:

- The health safety and welfare of the public will not be adversely affected by the development;
- Adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work;
- Adjacent properties are adequately protected by project design from drainage, seismic and erosion problems as a result of the work;
- ~~The 600 cubic yards of excavation and fill necessary to construct the residence, fire turn~~ around and access drive and the required on-site parking on this up-slope lot is the minimum necessary to allow the owners use of their property.

4. Construction of the residence will require the removal of 15 Bay trees and two oak tree but most of the trees on the site which is a little over 3 acres will be retained. Therefore, the natural landscaping will not be removed by the project more than is necessary;

5. Town Code § 17.072.090(C)(4) prohibits grading during the rainy season from October 1<sup>st</sup> through April 1<sup>st</sup>. Therefore, the time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.

6. The project provides two on-site parking spaces and a guest parking space in the level area at the driveway of the fire access roadway as required by Town Code §§ 17.052.(A)(1) and (2). The project also includes a fire-truck turn out to improve emergency vehicle access to the site and the surrounding Valley Road neighborhood. Therefore, vehicular access and parking are adequate.

**NOW, THEREFORE, the Planning Commission of the Town of Fairfax does hereby resolve as follows:**

**Section 1.** After careful consideration of the site plan, architectural drawings, plans and other exhibits submitted in connection with this matter, approval of the application by Frances Kibee for a single-family residence and fire access and water supply improvements is hereby granted subject to the following conditions:

**Planning Conditions:**

1. The driveway improvements and water supply must be completed and approved by the Ross Valley Department and Town Engineer before any combustible materials are delivered to the site (Exhibit A - California Fire Code §501.4, Timing of Installation, and Ross Valley Fire Department Memorandum dated 9/8/11).
2. The driveway plans must be signed and stamped by the project Civil Engineer prior to the issuance of the building permit and must be accompanied by a signed and wet stamped letter indicating that the improvements have been designed to support 40,000 gross vehicle weights (Exhibit A – Ross Valley Fire Department memorandum dated 9/8/11).
3. The driveway plans shall be subject to approval by the Town Engineer prior to issuance of the building permit.
4. Once the driveway improvements are completed the Civil Engineer shall submit a signed a wet stamped letter indicating that the driveway was designed per the approved plans and to their specifications.
5. The improvements shall be subject to a final inspection and approval by the Town Engineer as complying with the approved plans.
6. Submit guard rail details for the safety railing that will be required for areas of the road if drop offs exceed 30 inches in height as required by the building code.
7. Prior to issuance of the building permit the applicant shall provide the Town with a recorded copy of the merger notice merging the two parcels that make up the site into one.
8. Prior to issuance of the building permit the owner shall sign and record a deed restriction indicating that the residence shall be used as a single-family residence and shall have only one kitchen and the unimproved, 384 square foot lowest level shall remain unimproved and non-habitable space.
9. This approval is limited to the development illustrated on the plans prepared by Jeff Kroot dated February 2011, pages 1 through 4 and the Vegetative Management plan, based on the Record of survey by Lawrence Doyle dated January 2011, the engineering drawing by Lawrence Doyle, pages C-1 (dated 8/22/11), and pages C-2, C-3 and C-4 (dated 12/22/11) and discussed in the following project engineering reports and letters by Salem Howes Associates Inc., dated February 4, 2011 and June 16, 2011.
10. Prior to issuance of a building permit the applicant or his assigns shall:
  - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:
    - Construction delivery routes approved by the Department of Public Works.
    - Construction schedule (deliveries, worker hours, etc.)
    - Notification to area residents
    - Emergency access routes

b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director).

c. Submit a bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a bond or letter of credit equaling 100% of the estimated construction costs.

d. The foundation and retaining elements shall be designed by a civil engineer or structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the civil engineer or structural engineer and submitted to the satisfaction of the Town Engineer.

e. The geotechnical engineer shall provide the Town with a signed and wet stamped letter indicating that the grading, foundation, retaining, and drainage elements comply with the recommendations he made in his original soils report dated February 4, 2011.

f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.

g. The applicant shall secure a tree cutting permit from the Town prior to removal of any on-site trees over 24 inches in circumference measured 24 inches from the ground. To further minimize impacts on trees and significant vegetation, the applicant shall submit plans for any utility installation (including sewer, water, drainage) which incorporates the services of a licensed arborist to prune and treat trees having roots 2 inches or more in diameter that are disturbed during the construction, excavation, or trenching operations. In particular, any cross country utility extensions shall minimize impacts on existing trees. Tree root protection measures may include meandering the line, check dams, rip rap, hand trenching, soil evaluation, and diversion dams. Any trimming of trees shall be supervised by a licensed arborist.

h. Submit three copies of the recorded record of survey with the building permit submittal.

i. Pruning should be conducted during the winter which trees are dormant for deciduous species and July-August for evergreen species.

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

a. The geotechnical engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended prior to installation of foundation and retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the civil engineer or geotechnical engineer, and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans.

c. The building official shall field check the concrete forms prior to the pour.

d. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.

e. Additionally, any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

12. Prior to issuance of an occupancy permit the following shall be completed:

a. ~~The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.~~

b. The Town Engineer shall field check the completed project to verify that the work has been installed as per approved plan.

c. The Planning Department shall field check the completed project to verify that all design review and planning commission conditions have been complied with including, if applicable, installation of landscaping and irrigation.

13. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

14. The roadways shall be kept clean and the site free of dust by watering down the site if necessary. The roadways shall be kept free of dust, gravel and other construction materials by sweeping the roadway, daily, if necessary.

15. During construction developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637 (Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."

16. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, *any* changes, modifications, additions or alterations made to the approved set of plans will require a modification of Hill Area Residential Development Permit 11-29. *Any* construction based on job plans that have been altered without the benefit of an approved modification of Hill Area Residential Development Permit 11-29 will result in the job being immediately stopped and red tagged.

17. Any damages to Valley Road resulting from construction activities shall be the responsibility of the property owner. The owner or contractor shall videotape or otherwise document as approved by the Public Works Director the existing condition of the roads in the vicinity of the site prior to starting construction of the residence. Road closures, if necessary, shall be coordinated with the Fairfax Police Department and the Ross Valley Fire Department.

18. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

19. Should the Ross Valley Fire Department, Ross Valley Sanitary District or Marin Municipal Water District modify any of their conditions, the conditions below shall be amended as long as they do not conflict with Fairfax Town Codes or the California Building Code, 2010.

**Ross Valley Fire Department Conditions:**

1. Access improvements and water supply improvements must be constructed and approved prior to delivery of any combustibles to the site for construction.
2. The project must meet the requirements of Chapter 7A of the California Building Code and the 2006 Wildland-Urban Interface Code.
3. The minimum driveway/fire access width shall be no less than 12 feet in the straights and 14 feet through the curves.
4. The minimum turning radius for the access drive shall be 27 feet.
5. The driveway shall be constructed with an all weather surface capable of supporting 40,000 gross vehicle weights and an engineered stamped plan sheet acceptable to the Town Engineer shall be provided prior to issuance of the building permit.
6. Grades up to and including 18% may be of A/C paving. Grades greater than 18% shall be of concrete curb-cut so as to allow for water run-off and traction.
7. The driveway and turn around shall be designated and be posted as a Fire Lane and parking is not allowed within the required clearance widths or turn-around area in accordance with Ross Valley Fire Department Standard # 204.
8. Grading shall extend a minimum of 6 feet beyond the paved portion of the turnaround as shown on the plans.

9. Flammable and combustible vegetation shall be removed within 10 feet of driveways on easements and the project property only. Vegetation may be removed from neighboring properties only after obtaining permission from the property owner.

10. A fire protection system shall be installed which complies with the requirements of the National Fire Protection Association 13-D and as modified in the approved alternate materials request. A Separate deferred permit is required for this system. A modified 13-D system has been approved by the Fire Chief as an alternate to relocating or addition an additional fire hydrant however the existing hydrant body will need to be upgraded per Section 508.5.1 of the Fire Code.

(For a full text of the Fire Department's conditions see Exhibit D, Revised memorandum from the RVFD dated January 9, 2012).

#### **Marin Municipal Water District Conditions**

1. The applicant must comply with the District's Water Conservation Ordinance 414.
2. Should backflow protection be requirement it shall be installed prior to the project final inspection.

#### **Sanitary District (Exhibit F)**

A new sewer connection will be required for the new residence. The cost will be based on the number of fixtures. Occupancy will not be approved until District's permit and sewer requirements are fulfilled.

#### **Outstanding Engineering Bills**

The applicant shall pay the outstanding engineering bills and administrative processing costs prior to issuance of the building permit. Engineering bills and administrative costs incurred during the building permit review and construction of the project shall be paid in full prior to issuance of the occupancy permit.

**PASSED AND ADOPTED** by the Town of Fairfax Planning Commission, State of California, this 19<sup>th</sup> day of January, 2012 by the following roll call vote:

**AYES:** Hall, Kehrein, Ketcham, Lamotte, Lacques, Chair Hamilton

**NOES:**

**ABSTAIN:**

\_\_\_\_\_  
Chair Hamilton, Planning Commission

**ATTEST:**

\_\_\_\_\_  
Jim Moore, Director of Planning and Building Services

This permit is hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the Applicant, and Property Owner or Authorized Agent. The undersigned hereby acknowledges the approved terms and conditions and agrees to fully conform to and comply with said terms and conditions within the recommended time frames approved by the City Planning Commission.

\_\_\_\_\_  
Frances Kibbe, Property Owner

\_\_\_\_\_  
Date

M/s, LaMotte/Hall, Motion to approve a request for a Use Permit and Variances of the minimum 5 foot and combined 20 foot side yard setbacks to construct a 504 square foot, two story addition to a 1,263 square foot residential structure at 90 Spruce Road, with the amendment to the staff report that the lot size was 7,636 square feet:

AYES: All

Chair Hamilton read the appeal rights.

5. 62 Valley Road; Application # 10-29: Request for a Hill Area Residential Development Permit and Excavation Permit to construct a 2,696 square foot single-family residence including driveway improvements for emergency response vehicles; Assessor's Parcel Numbers 001-063-31, 003-191-01 and 003-191-02; Residential Single-family RS 6 Zone; Jeff Kroot Architect/Applicant; Frances Kibbe, owner; CEQA Categorically exempt, 15303(a).

Planning Director Moore noted an error in the staff report on page 3, which should have recorded a combined structure of a 2,696 square foot residence and not a 2,969 square foot residence.

Mr. Moore discussed the necessary discretionary permits for this hillside lot. He noted that the client had lost her home in a fire, that the lot was large and that the proposed residence did not cause any design issues. However, he explained that the design of the road leading to the residence had been a challenge. Mr. Moore discussed the difficulties involved with the application process in relation to the engineering aspects of the project. He noted that the applicant had successfully appealed a staff decision that the project had been deemed incomplete, which made it necessary for the Commissioners to make a decision and not continue the project.

Mr. Moore explained that counsel had been involved in drawing up the Conditions of Approval and the Resolution, which staff believed should ensure that the grading would be accomplished and the road built. He said that staff recommended approval of the project.

Chair Hamilton and Mr. Moore discussed the Conditions of Approval, which Mr. Moore said that he hoped they would find adequate.

Vice-Chair LaMotte and Mr. Moore discussed the plans that were submitted on December 27<sup>th</sup>, 2011.

In response to Commissioner Lacques, Ms. Neal confirmed that the height of the residence met the code. Mr. Moore and Commissioner Lacques discussed the width of the driveway and the imperviousness of the material.

In response to Commissioner Kehrlein, Mr. Moore said that the Fire Department had approved the driveway plans.

Francis Kibbe, owner, discussed the background of her property. She said that she had lost everything in a fire. She expressed her dissatisfaction over the length of time it had taken to bring her project before the Planning Commission and how very much she wanted to rebuild a house on her land.

Jeff Kroot, project architect, discussed the problems that related to the engineering aspects of the project. He went on to discuss his client's concerns in the staff report, albeit that they liked the recommendation to approve the project. Mr. Kroot explained how they would like the square footage of conditioned and unconditioned space to be separated in the Resolution for reasons he discussed.

Mr. Kroot explained the aspects of the conditions of approval with which they were not in agreement. He explained the reasons they believed it would be prudent to complete the driveway improvements after the residence had been constructed.

He noted that there were no plans to construct a second unit and that his client saw no reason to file a Deed Restriction with the County of Marin.

Mr. Kroot discussed the conditions of approval which related to the approval of plans by the Town Engineer and the reasons he believed that the approval of a civil engineer should be sufficient....

He went on to discuss a problem they had with the installation of a guard rail. Mr. Kroot said they would install a guard rail if it were required by the Building Code but that their civil engineer had not thought it necessary.

Mr. Kroot discussed the road bond and his client's wish to know who would set it and for how much.

Mr. Kroot went on to note that it would be most unusual in the construction industry to request an engineer to sign the drawings of another engineer.

Mr. Kroot then discussed the requirements of the Fire Department and Sanitary District, which had been incorporated into the Conditions of Approval. He said that his client did not wish to replace the sewer line until further investigation had been made and would abide by the Sanitary District's decision.

Chair Hamilton and Mr. Kroot discussed the reasons they wanted the square footage of the conditioned and unconditioned space to be separated in the resolution, which Mr. Kroot explained was for tax purposes.

Commissioner Hall and Mr. Kroot discussed the guard rail. Mr. Kroot explained that he did not believe the location for a guard rail was suitable.

Senior Planner Neal discussed the road bond. She said that the applicant would be requested to provide a value for repairs to the roadway for the Town Engineer's approval.

General discussion took place amongst commissioners and Mr. Kroot about the request that the soils engineer stamp the civil engineer's plans and the need for the Town Engineer to do field checks. In response to Commissioner Hall, Mr. Kroot said that the project engineer should be sufficient to undertake field checks.

Commissioner Ketcham noted that the code stated that excavation could take place from April 1<sup>st</sup>.

General discussion took place amongst the commissioners and Mr. Kroot regarding his request that the roadway be paved at the end of the project. Mr. Moore noted that, since the Fire Department requested the roadway be paved before construction, the commissioners did not have the authority to change the condition. Commissioner Kehrlein added that it was a common requirement by the Fire Department to pave a driveway before construction had begun.

General discussion commenced about changes to the language regarding the Sanitary District's requirements.

Vice-Chair LaMotte and Ms. Kibbe discussed the reasons for her unwillingness to sign a Deed Restriction.

In response to Commissioner Lacques, Mr. Kroot said that sufficient foliage would remain to provide screening when the allotted trees were removed.

In response to the applicant, Ms. Neal noted that a Deed Restriction was not related to the size of a project.

Chair Hamilton opened the public comment period.

Stewart Summers, an immediate neighbor, discussed his concerns with regard to a utility pole close to his property, a drainage culvert, and the driveway in relation to the project. He discussed erosion and his concern that water would be directed on to his property from the new construction. Mr. Summers used photographic materials to clarify his comments.

Terri Brink, Oak Tree Lane, said she sympathized with the applicant and the process she has had to go through in order to try and build a home.

In response to public comment, Mr. Kroot discussed the width of the driveway, which he noted will be widened, and he addressed the culvert issue.

Ms. Kibbe addressed the erosion problems. She explained it had been caused by Ross Valley Sanitary District and that she had tried to take steps to rectify the problem.

Commissioner Kehrlein and Mr. Kroot discussed drainage and water distribution in relation to the plans.

In response to Commissioner Lacques, Ms. Neal noted that the Design Review Board would review the project provided it would be approved by the Planning Commission.

Commissioner Ketcham discussed the difficulty of building a new home on an empty site where a building had once stood. He said that he had no issues with the house but that the driveway requirements needed to meet the code and that they would hold others to the same standard. He said that he understood the reason for putting in the road prior to construction.

Chair Hamilton and staff discussed the Town Engineer's role in approving the plans. Ms. Neal noted that he would review the plans at the building permit stage.

Vice-Chair LaMotte and Ms. Neal discussed the aspects of the engineering plans on which the Town Engineer disagreed, which related to stability.

Chair Hamilton and staff discussed how the project could be moved along in the planning process. Mr. Moore noted that the project plans and information had been deemed complete by law.

General discussion took place on the way forward and consensus was reached to discuss each planning condition of approval as deemed necessary.

Discussion took place on the planning conditions that related to driveway being paved prior to construction, gross vehicle weights, and approval of the driveway plan by the Town Engineer. There was general consensus that the process would be more streamlined than indicated by the conditions and no changes were made.

Discussion took place on the condition regarding the guard rail.

Chair Hamilton noted that the language that related to parts a, b and c of Condition 10 seemed to be standard.

Commissioner Hall noted that it was not standard practice in the construction industry for professionals to sign one another's plans, although he said that it was usual for the geotechnical engineer to provide a stamped letter.

There was general consensus to Commissioner Ketcham's recommendation that the language pertaining to trees should not be changed in view of the fact that the plans lacked detail.

Commissioner Kehrlein and Ms. Neal discussed the condition that related to the Town Engineer field checking the project prior to issuance of the Occupancy Certificate. Ms. Neal noted that it was the intent of the condition to ensure the road works had been completed. There was general consensus amongst the commissioners not to change the condition.

M/s, Hall/LaMotte, Motion to approve Resolution No. 12-01, Application No. 11-29, a request for a Hill Area Residential Development Permit and Excavation Permit to construct a 2,696 square foot, single-family residence, including driveway improvements for emergency response

vehicles, at 62 Valley Drive with the following modifications to the Planning Conditions of Approval:

- That condition 6 that related to the guard rail shall read: "Submit guard rail details for the safety railing that will be required for areas of the road if drop offs exceeding 30 inches in height as required by the building code".
- That condition 10(e) that related to the signing of the driveway plans would read: ".....shall be reviewed, approved signed and stamped by the geotechnical engineer as complying with their original geotechnical report."
- Where "civil engineer" appears in the conditions. "or structural engineer" shall be added.
- That condition 13 that related to the excavation dates shall read "Excavation shall not occur between October 1<sup>st</sup> and April 1<sup>st</sup>. The Town Engineer....."
- That condition 19 be added: "Should Ross Valley Fire District, Marin Municipal Water District or the Sanitary District modify their conditions, those modification would be incorporated by reference into the conditions of approval, provided that they do not conflict with the town code or building code"

That the first item of the Resolution be amended to read:

- **WHEREAS**, the Town of Fairfax has received an application for 62 Valley Road to construct a 2,585 square foot single-family residence and 384 square feet of unimproved area;

A roll call as taken:

AYES: Hall, LaMotte, Lacques, Ketcham, Hamilton Kehrlein

The project passed unanimously.

Chair Hamilton read the appeal rights.

## **APPROVAL OF MINUTES**

### 6. Minutes from the November 17, 2011 meeting

M/s, Ketcham/Hall, Motion to approve the minutes from the November 17, 2011 meeting with the correction of Commissioner Coler's name on Page 3.

AYES: Hall, Hamilton, Ketcham, Lacques LaMotte

ABSTENTION: Kehrlein

## **PLANNING DIRECTOR'S REPORT**

Fairfax Planning Commission,

*(From the sticks on the house.)*  
It has come to our attention that the owner of the burned down house on Valley Drive is asking to replace her home with a two-story home. We are concerned with the second level of this home proposal.

We are unaware if the owner knows that the new second story will be looking directly into our bedroom, and onto our main back decks – Our bedroom and decks were completely private when her home was one story. In fact, we did not know her house existed until the night of the horrible home fire. We purchased the house primarily due to this level of privacy at the back of our home.

The owner might want to know that the second level new addition's living room windows and deck off the front of the house will not be private, as she may think they will be. We will have a clear view of the living room windows and deck. Unfortunately, we have a clear view from our bedroom and both outside back decks. Our home is very small, so we spend much of the year outside on our decks.

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We can't imagine the horror the owner went through when the fire broke out in her home. We understand she climbed out her bedroom window to safety. We are so glad that she is able to rebuild her home.

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The fire department did a Spectacular job at containing the fire. We are blessed to have a competent, responsive, caring and expert fire response team in our town.

Sincerely,

51 Mountain View Road.

Rochelle and Steve

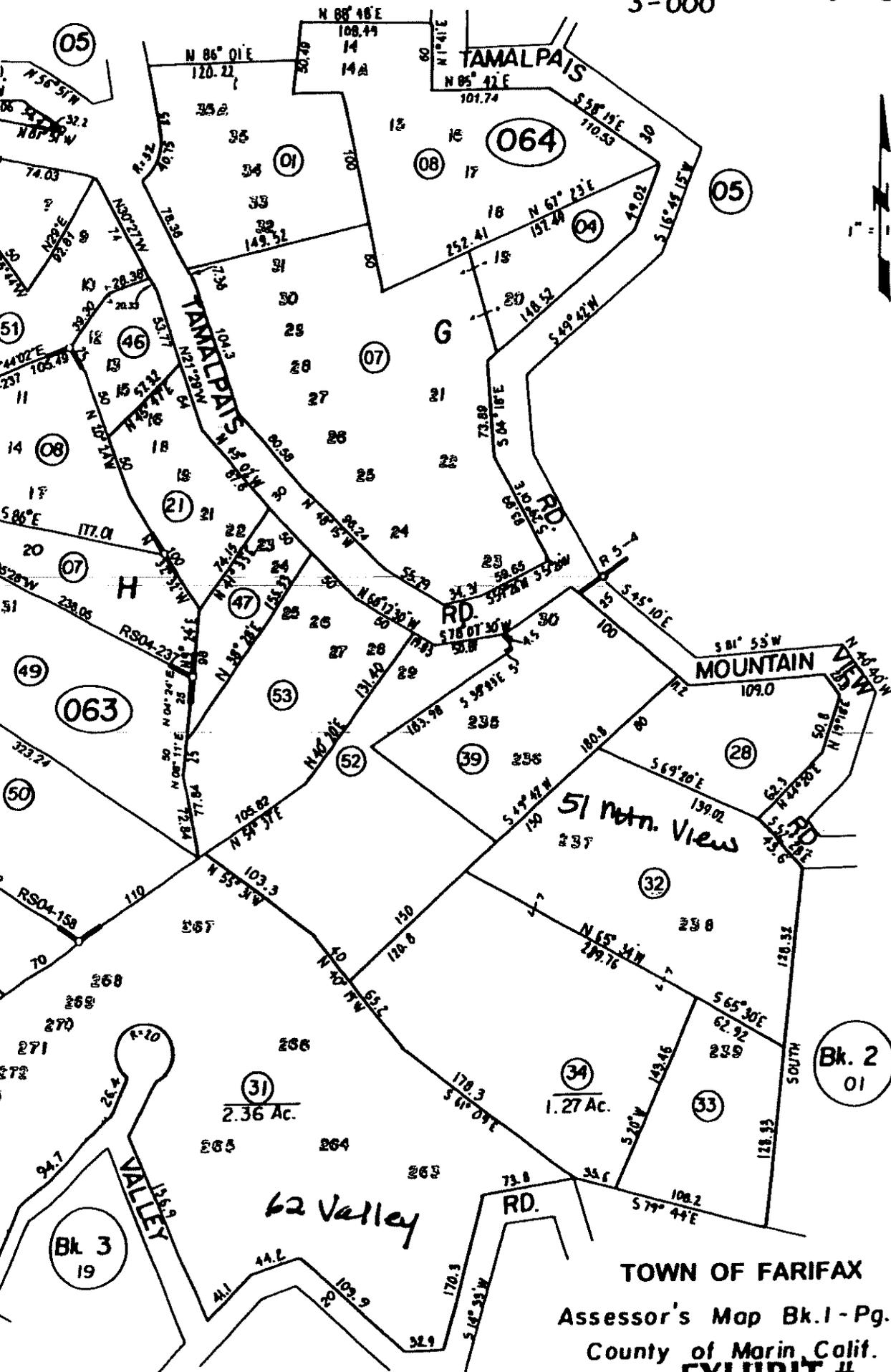
279-3056

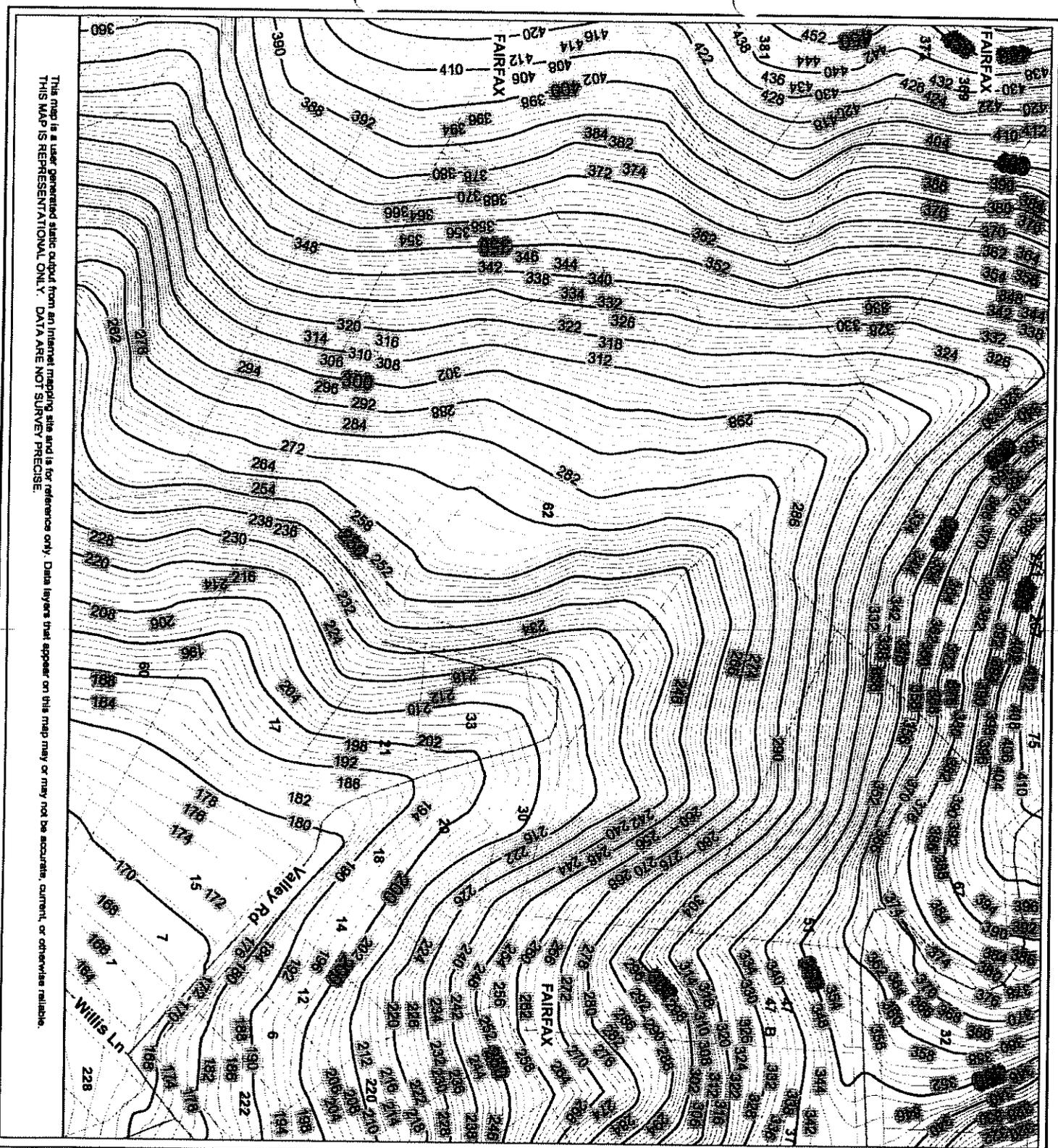
TOWN OF FAIRFAX

JAN 20 1992

RECEIVED

EXHIBIT #





This map is a user-generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY PRECISE.

**Legend**

- Major Road
- Highway 101, SR0
- Major Road
- Road
- Highway 101, SR0
- Other Highway
- Local
- Fire Road
- Driveway
- Footpath
- Railroad
- Address
- Parcel
- City Limit Line
- County Boundary
- 2008 NAVD88 50ft index
- 2008 NAVD88 10ft index
- 2008 NAVD88 2ft urban area
- Ocean Bay

1:1,279



## SUPPLEMENTAL QUESTIONNAIRE & DRB APPLICABILITY

### DESIGN REVIEW

For Commercial, Planned Developments, Hillside Residential and Multiple Family Design Review: (Include brand and number for all finish and/or paint colors.)

1. Exterior finish: CEDAR SIDING + TRIM
2. Proposed exterior wall color(s): STAINED NATURAL
3. Proposed exterior trim color: STAINED NATURAL
4. Proposed exterior window color: DARK BRONZE WINDOWS + TRIM
5. Proposed roof material and color: DARK BRONZE STANDING SEAM METAL
6. Special features: \_\_\_\_\_
7. Lot Coverage: 1.42%
8. Number of existing parking spaces and their sizes: \_\_\_\_\_
9. Number of proposed parking spaces and their sizes: 3 + 9' x 19' +

### DESIGN REVIEW APPLICABILITY

#### 1. Hillside Design Review (in a ridge line)

All new dwellings located on hillside properties and all additions on properties located in a ridgeline scenic corridor (which include deck and stairway structures) shall require design review.

Additions and accessory structures may be exempt from design review where the applicant demonstrates, through the use of story poles, plans and photo montages, that an accessory structure or addition will have no impact on significant view corridors due to the proposed location of the structure in relation to existing improvements. Project exemption shall be determined by the Fairfax Planning Director.

#### 2. Multiple family Design Review

Multiple family residential units of three (3) or more and additions to structures located in the Multiple Family RM Zone.

#### 3. 50% remodels of additions to residential properties



# TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 / FAX (415) 453-1618

## NOTICE OF APPEAL

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### FOR STAFF USE

FEB 21 2012

Date: 2/21/12 Fee: \$ 500.00 TOWN OF FAIRFAX  
Appl.# \_\_\_\_\_  
Receipt# 1-36675  
Recvd. By: S. Waters  
Action: \_\_\_\_\_

The purpose of the appeal procedure is to provide recourse in case it is alleged that there is an error in any order, requirement, permit, decision or determination by any administrative official, advisory body or commission in the administration or enforcement of the City Ordinances. Any person aggrieved by the action of any administrative official, advisory board or commission in the administration or enforcement of any ordinance in the Town Code may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten (10) days of action that is appealed.

**FEE:** Fees are set by resolution of the Town Council. See fee schedule for current application fees.

### PLEASE PRINT

Appellant's name Rochelle Eremann / Charles & Sherrie Richardson  
Mailing address 51 Mountain View Rd 267 Tamalpais Rd 499-3056 / 459-4825  
Zip: \_\_\_\_\_ Day phone \_\_\_\_\_  
*Eremann Richardson*

Property Address: 62 Valley Road

I appeal the decision of: (list board, commission, or department and decision, for example: Planning Commission denial of variance) application # 10-29

The following are my reasons for appeal:  
Preserve Quality of Life by ensuring maintenance of existing Privacy

hereby declare that I have read the foregoing Notice of Appeal and know the contents thereof. I further declare under penalty of perjury that the information supplied by me is true and correct.

Executed this 18 day of February, ~~18~~ 2012

SIGNATURE OF APPELLANT: \_\_\_\_\_  
*Rochelle Eremann / Sherrie Richardson*  
(4/94)

EXHIBIT # 1

Fairfax Planning Commission,

*(From the sticks on the house.)*

It has come to our attention that the owner of the burned down house on Valley Drive is asking to replace her home with a two-story home. We are concerned with the second level of this home proposal.

We are unaware if the owner knows that the new second story will be looking directly into our bedroom, and onto our main back decks – Our bedroom and decks were completely private when her home was one story. In fact, we did not know her house existed until the night of the horrible home fire. We purchased the house primarily due to this level of privacy at the back of our home.

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Sincerely,

51 Mountain View Road.

Rochelle and Steve

219-3056

TOWN OF FAIRFAX

JAN 11 2012

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