

*DRAFT* Town of Fairfax Planning Commission Minutes  
Fairfax Women's Club  
Thursday, January 19, 2012

**Call to Order/Roll Call:**

**COMMISSIONERS PRESENT:** Morgan Hall  
Shelly Hamilton (Vice-Chair)  
Laura Kehrlein  
Brannon Ketcham (Chair)  
Peter Lacques (arr. 7.10 p.m.)  
Shelby LaMotte

**COMMISSIONERS ABSENT:** Barbara Coler

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

Vice-Chair Hamilton called the meeting to order at 7.05 p.m.

**APPROVAL OF AGENDA**

Planning Director Moore noted that the applicant for 40 Terrace had requested that the item be continued to the meeting of February 16, 2012.

M/s, Hamilton/Hall, Motion to approve the Agenda as amended.

AYES: All

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

No one from the public came forward to speak.

**ELECTION OF NEW CHAIR AND VICE CHAIR**

M/s, LaMotte/Hall, Motion to elect Vice-Chair Hamilton to Chair:

AYES: All

M/s, Hall/Lacques, Motion to elect Commissioner LaMotte to Vice-Chair:

AYES: All

**CONSENT ITEMS**

1. 339 Cypress Drive; Application # 10-25: Request for a modification of a previously approved Encroachment Permit and Retaining Wall Height Variance to revise the design of the safety guard rail; Assessor's Parcel No. 03-131-22; Residential Single-family RS 6 Zone; Danny Rubenstein and Janet DeGiovanna owner/applicants; U A categorically exempt, § 15305(b)

Chair Hamilton opened and then closed the public comment period when no one from the public stepped forward to speak.

M/s, Ketcham/LaMotte, Motion to approve the consent item.

AYES: All

Chair Hamilton read the appeal rights.

### **PUBLIC HEARING ITEMS**

2. 34 Pacheco; Application # 10-27: Request for a Use Permit and Variance of the required 20 foot combined side yard setback requirement to construct a 50% remodel, adding a 1,059 square foot, two story addition to an existing 1,428 square foot single-family home; Assessor's Parcel No. 002-123-06; Gregory Iboshi, Huang Iboshi Architecture / Applicant; John and Lorna Kirk, owners; Residential RD 5.5-7 Zone; CEQA categorically exempt, § 5301(e) and § 15305(a)

Senior Planner Neal presented the staff report. She discussed the project and said that a rear deck would need to be removed in order to construct a carport. Ms. Neal noted that, since the project constituted a 50% remodel, it would also need to be presented to the Design Review board. She discussed the necessary discretionary permits, which included a variance for a covered parking space that would be smaller than the code required.

Ms. Neal went on to note that the site was larger than other properties in the area and could therefore accommodate a larger building mass than others in the vicinity. She explained that for this reason, in addition to the findings and conditions set forth in the staff report, staff would recommend approval.

Ms. Neal noted that in staff report, the sentence under condition #2, "Only a small 200 square foot .....with the minimum side setback" should be eliminated for reasons she explained.

Planning Director Moore discussed the planning process and said that the work needed for larger projects had become more onerous and staff were thorough in their reports. He suggested that he summarized such projects to help the commissioners and create a smoother process. Mr. Moore went on to sum up the project Ms. Neal had discussed in her staff report.

In response to Vice-Chair LaMotte, general consensus was reached that the ordinance number under the conditions that related to the Marin Municipal Water District should be removed.

In response to Commissioner Lacques, Ms. Neal noted that parking meet code requirements. They discussed a flood zone issue and Ms. Neal confirmed that the applicant had provided an Elevation Certificate.

Gregory Iboshi, project architect, said that the staff report had been thorough and that he did not propose to expand upon the project further.

Mr. Iboshi and Vice-Chair LaMotte discussed the trellis area in relation to the variance request and then Mr. Iboshi discussed the Elevation Certificate.

Chair Hamilton opened the public comment period and closed it when no one came forward to speak.

Commissioner Hall noted that the design was effective and not over-sized. He said he supported the application. Vice-Chair LaMotte echoed Commissioner Hall's views and she commended the applicants on their level of courtesy involved in the project.

Commissioner Lacques said that he also supported the project but he discussed his parking concerns, albeit that he recognized the code had been met.

Commissioner Ketcham said that the design and space worked in relation to the setback requirements. He explained the reasons he liked certain design elements that related to parking.

Commissioner Kehrlein expressed her concern that the carport area could be enclosed at a future date and would cease to function as a parking space. Otherwise, she said that she liked the project.

Ms. Neal suggested that a condition of approval be added stipulating that the carport should remain open.

Chair Hamilton echoed the comments of the other commissioners and commented on the creativity of the parking design.

M/s, Ketcham/Hamilton, Motion to approve a request for a Use Permit and Variance of the required 20 foot combined side yard setback requirement to construct a 50% remodel, adding a 1,059 square foot, two story addition to an existing 1,428 square foot single-family home at 34 Pacheco, with the following additional condition of approval:

That a Deed Restriction be recorded at Marin County stating that the carport should remain open and not be enclosed.

That the condition of approval which related to the Marin Municipal Water District be amended to read:

“The applicants must comply with the District's Water Conservation code.....”

AYES: All

Chair Hamilton read the appeal rights.

4. **90 Spruce Road; Application # 10-28: 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; Assessor's Parcel No. 001-142-22; Residential Single-family RS 6 Zone; Peter Brockman, Architect/Applicant, Joan and Ron Wada, owners; CEQA categorically exempt, §15301(e) and §15305(a).**

Senior Planner Neal presented the staff report. She noted that the lot size in the staff report was given as 4,900 square feet when, in fact, it was 7,636 square feet. Ms. Neal discussed the project, which included the reasons the project could not comply with the 20 foot side yard setback. She noted that the parcels and residences in the neighborhood varied in size but that staff believed the proposal fell within the range of density in the neighbor.

Ms Neal discussed the variance requests in relation to the project. She noted that the property was steep and narrow and that any addition would require a setback variance. She noted that removal of trees on the property would not be necessary and that staff recommended approval of the project based on the findings and conditions set forth in the staff report.

Planning Director Moore noted that the project did not constitute a 50% remodel and would not, therefore, need to be reviewed by the Design Review Board.

Peter Brockman, project architect, explained the difficulty of fitting in an addition on the site and the reasons he could not meet the 20 foot side yard setback. He noted that the design was simple, would bring daylight into the house and that it would complement the original structure.

Chair Hamilton opened and then closed the public comment period when no members of the public came forward to speak.

Commissioner Hall said that the architect had done well with a fine design on a tough lot.

Vice-Chair LaMotte said that the design had struck a balance between a spare, elegant building and a difficult lot.

Commissioner Lacques said that he liked the simplicity of the design and agreed that the parcel had been challenging.

Commissioner Ketcham added that it was a good design for a high-visibility lot.

Commissioner Kehlrein complemented the architect on a great design and said that she appreciated his efforts made to try to meet the setback requirements.

Chair Hamilton said that the design looked great and that she had nothing further to add.

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**

Planning Director Moore welcomed Commissioner Kehrlein to the Planning Commission.

Mr. Moore provided a General Plan update. He discussed a zoning forum scheduled for the spring and training for the Planning Commissioners.

Mr. Moore noted that a budget had been provided for a part-time zoning technician.

### **DISCUSSION ITEMS**

In response to Commissioner Ketcham, Director Moore said that he had not yet been in contact with the gas station owners who would be affected by changes to the General Plan.

General discussion took place on the steps that would be taken following adoption of the General Plan.

Commissioner Ketcham and Mr. Moore discussed the possibility of there being 2 Planning Commission meetings per month, which Mr. Moore said he did not anticipate.

### **COMMISSIONER COMMENTS AND REQUESTS**

Commissioner Ketcham discussed the possibility of being provided with plans in PDF format. Mr. Moore said he would investigate the matter.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 11.20 p.m.

Respectfully submitted,

Joanne O'Hehir