

OCT 02 2013

RECEIVED

John Owens & Diana Dullaghan
177 Frustuck Avenue, Fairfax CA 94930
Tel. 456-8064 Email: johnoph@aol.com

October 3, 2013

Hand Delivered

Jim Moore, Planning Director
Town of Fairfax
142 Bolinas Road
Fairfax Ca 94930

Re: Discretionary time period has expired for 177 Frustuck Planning Application.

Dear Mr. Moore,

This letter is to inform you that the discretionary time period allowed for our Planning Application has expired. The application was submitted on 6.27.13. The Town was required to contact us in writing within 30 days (7.26.13.) as to whether the application was complete or incomplete. The Town failed to contact us. The first communication we received on 8.6.13 was the Public Notice that we were on the 8.15.13 Planning Commission Agenda. Therefore the application was deemed complete on 7.26.13. The obligatory Public Notice was mailed out 8.2.13. and we received a copy on 8.6.13. This application is California Environmental Quality Act exempt requiring that it be approved or denied within 60 days of being deemed complete. The discretionary time period expired on 9.24.13.

The application was removed from the Planning Commission agenda because of obvious errors in the plan review and incorrect statements. I have continually asked in writing for the corrections to be made since 8.13.13. I have continually attempted to proceed with this application. Our project has been delayed by your continued denial that errors exist (even though I have produced documentation to the contrary). Further delays have occurred due to you requiring that I sign an inappropriate Memorandum of Understanding which only applies to pre application conversations with "over the counter staff" before I could meet with you in person.

The discretionary time period has expired and I would like to make arrangements to collect my Building permit from the Building Official. Please let me know what will be required for me to secure the permit from the Building Official.

As I have stated in writing on many occasions we intend to proceed with this application.

Yours sincerely,

John Owens, Diana Dullaghan



TOWN OF FAIRFAX

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

October 8, 2013

John Owens and Diana Dullaghan
177 Frustuck Avenue
Fairfax, CA. 94930

Re: 177 Frustruck Avenue; Planning Application

Dar Mr. Owners and Ms. Dullaghan,

On August 15, 2013 the Planning Commission granted your written request that your proposal for a residential second unit at 177 Frustuck Avenue be removed from the agenda where it had been scheduled for Commission action.

In order to comply with California Permit Streamlining regulations your project has been rescheduled for the November 21, 2013 Commission hearing. All written information that you have submitted since the August meeting will be included with the previously written staff report on the project. Any additional information that you want to include in the prepared Planning Commission information packet must be received no later than November 6, 2013. If you have any questions please feel free to contact the Department of Planning and Building Services.

Sincerely,

Linda Neal
Principal Planner

cc. Jim Moore, Director of Planning and Building Services

OCT 14 2013

RECEIVED

John Owens & Diana Dullaghan
177 Frustuck Avenue, Fairfax CA 94930
Tel. 456-8064 Email: johnoph@aol.com
October 14, 2013

Linda Neal Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax Ca 94930

Re: October 8th 2013 letter from the Department of Planning and Building Services

Dear Ms. Neal,

I believe you are mistaken again with your statement " In order to comply with California Permit Streamlining regulations your project has been rescheduled for November 21, 2013 Commission hearing". This cannot apply as the discretionary time period has simply expired. I never requested any extension of time, and no such requests for any extension were made of me verbally or in writing from the Town of Fairfax. The Planning Commission no longer has discretion over issuing the permit for our application. I had our second unit application taken off the 8.15.2013 Planning Commission agenda for corrections to be made to the mistakes and inaccuracies in the Staff Report. I promptly brought the errors to your attention and corrections have not been made. The discretionary period has already expired.

You state " If you have any questions please feel free to contact the Department of Planning and Building Services" My question is: How does placing the application on the November 21 agenda comply with the Permit Streamlining Act if the time limits have expired ?

In my letters dated: 8.18.2013, 9.4.2013, 9.5.2013, 9.9.2013, 9.12.2013, 9.30.2013, and 10.3.2013 I have continually asked for our application to proceed. I am again requesting that a building permit be issued as the 90 day discretionary time period has expired. Please let me know in writing by October 18th 2013 the answer to my question, and when I can pick up the building permit.

Yours sincerely,



John Owens, Diana Dullaghan



John Owens <johnowensservices@gmail.com>

Letter Dated Oct. 14, 2013

1 message

Jim Moore <jmoore@townoffairfax.org>

Wed, Oct 16, 2013 at 8:56 AM

To: John Owens <johnowensservices@gmail.com>, "johnoph@aol.com"
<johnoph@aol.com>

Cc: Linda Neal <lneal@townoffairfax.org>

Hello John,

We are in receipt of your October 14, 2013 letter and have reviewed it thoroughly. Once again, you are confused with the process.

YI: Your application for a second unit is being placed on the November 21, 2013 Planning Commission agenda for their consideration.

Best Regards,

Jim

James M. Moore

Director of Planning & Building Services

Town of Fairfax

142 Bolinas Road

Fairfax, CA 94930



John Owens <johnowensservices@gmail.com>

177 Frustuck Application: PSA Verification

1 message

Jim Moore <jmoore@townoffairfax.org>

Thu, Oct 17, 2013 at 8:43 AM

To: John Owens <johnowensservices@gmail.com>, "johnoph@aol.com" <johnoph@aol.com>

Cc: Linda Neal <lneal@townoffairfax.org>

Hello John,

FYI: Linda and I have decided to send your letters, and the questions about the time frame for processing your application under the Permit Streamlining Act on to our Town Attorney for review. We will share with you what we can when we get a response.

In the meantime, we plan on putting you on the November 21, 2013 Planning Commission Agenda.

Best Regards,

Jim

James M. Moore

Director of Planning & Building Services

Town of Fairfax

142 Bolinas Road

TOWN OF FAIRFAX

OCT 30 2013

RECEIVED

John Owens & Diana Dullaghan
177 Frustuck Avenue, Fairfax CA 94930
Tel. 456-8064 Email: johnoph@aol.com
October 25th, 2013

Jim Moore Planning Director
Linda Neal Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax Ca 94930

Re: Town use of the permit Streamlining Act

Dear Mr. Moore, Ms. Neal,

I have periodically attended Planning Commission meetings since we placed our building lot in escrow in 2003. I have observed on multiple occasions Ms. Neal prompting the waiver of an applicant's rights under the Permit Streamlining Act (PSA) in order to continue a Planning Application. I have included four examples from the minutes of Planning Commission meetings where applicants were specifically asked to waive their rights under the PSA. The Town is well aware of the PSA and it's time limits.

In the case of our application I simply asked that our application be temporarily removed from the Planning Commission agenda for corrections to be made to the 8.15.13. Staff Report. I never asked for any extension of time or to delay the proceedings. I have continually asked you to proceed in my multiple letters dated 8.18.2013, 9.4.2013, 9.5.2013, 9.9.2013, 9.12.2013, 9.30.2013, and 10.3.2013 The Town has never approached us verbally or in writing to waive our rights under the PSA.

Your October 8th 2013 statement " In order to comply with California Permit Streamlining regulations your project has been rescheduled for November 21, 2013 Commission hearing" cannot apply to our application. The Town of Fairfax has never been in compliance with the PSA. Correct me if I am wrong. It is my understanding that in order to comply with, or use the California Streamlining regulations the Town of Fairfax has to include the PSA and it's associated time limits as part of the Planning Application form. The purpose of including this information is to inform the applicant of the time limits and their rights regarding the PSA.

Gov. Code 65941.5. Each public agency shall notify applicants for development permits of the time limits established for the review and approval of development permits pursuant to Article 3 (commencing with Section 65940) and Article 5 (commencing with Section 65950), of the requirements of subdivision (e) of Section 65962.5, and of the public notice distribution requirements under applicable provisions of law. The public agency shall also notify applicants regarding the provisions of Section 65961. The public agency may charge applicants a reasonable fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

The Town has used the PSA to it's advantage on multiple occasions all the while never being in compliance with the PSA because the applicant was never informed of the PSA or their rights.

The discretionary time period to review our project expired on September 24th 2013. I am again requesting our building permit be issued. Please do not waste more time and tax payer's money delaying the building of a much needed Leed Certified Affordable Housing Unit. Especially as the Town has a looming 2014 deadline from the Housing and Community Development Agency of 172 Housing units, and has no active programs in process to meet that deadline.

Yours sincerely,



John Owens, Diana Dullaghan

In response to Commissioner Hamilton, Ms. Neal clarified the front and combined setbacks. She noted that they were 15 feet, where normally 25 feet would be required.

Commissioners Lacques and Ketcham discussed setbacks in relation to the plans with Ms. Neal.

The Chair opened the hearing to the public.

Gary Roth, applicant, said they needed an extra bedroom, and that they had worked hard to minimize the space required and keep the profile of the addition low in order to minimize the project's impact on the neighborhood.

Max Crome, project architect, discussed the options to increase square footage, and said that it would be less typical of the neighborhood to add another story. He discussed the design in more detail.

The Chair closed the hearing to the public.

In response to Commissioner Ketcham, Mr. Crome confirmed they were removing the wood-burning fireplace. He discussed the materials being used for the garage, and noted that the roof of the addition would match the garage.

Commissioner Hamilton said that this was a modest addition that fitted in well with the character of the neighborhood, with which Commissioner Lacques was in agreement. He noted that the variance was minor.

Commissioner Ketcham also concurred, and he said that this was a modest improvement to the neighborhood. Commissioner Ramsey was in agreement, and Chair Meigs noted that the increase in square footage was limited and that she also supported the project.

M/S, Hamilton/Ramsey, Motion to approve Application # 08-45 for a Variance of the combined front/rear setback requirement to construct at 319sf kitchen expansion, bedroom and bath addition/remodel to an existing 1,276sf, two bedroom one bath single-family residence for a total living space square footage of 1,595sf; Assessor's Parcel Numbers 001-113-11 & 12; Residential RD 5.5-7 Zone;

AYES: All

The Chair read the appeal rights.

15 Acacia Road; Applicant # 08-46
Request for a Hill Area Residential Development Permit, Front Setback Variance, Combined Side Yard Setback Variance, Height Variance for a 4-story building, Encroachment Permit and an Excavation Permit to construct a 2,184sf single-family residence with an attached 583sf two car garage for a total square footage of 2,767sf; Assessors Parcel No. 001-112-30

Senior Planner Neal presented the staff report, when she discussed excavation, and noted that the minimum amount of earth would be removed in order to allow construction. Ms. Neal discussed the removal of trees, for which replacements will be planted in other areas of the property.

However, she noted that the proposed residence was not in character with the neighborhood based on the floor area ratio (FAR), which she explained. Ms. Neal discussed changes staff believed should be made in order that the project complied with FAR guidelines. She said that infill developments on hillside lots needed to conform to similar styles in the area to ensure harmony, and that the design should meet the requirements of the General Plan Zoning Ordinances.

Ms. Neal said that the Town Engineer believed the site could be developed and she discussed the variances and the conditions under which they could be granted. She noted that the lot was narrow, steep, and the front property line was close to the road. She discussed the height variance, and noted that staff did not believe a reason existed to grant a four-story residence. Ms. Neal stated that there are other undeveloped lots, which were similar, so future height variances could be requested if this variance were approved. She discussed the options staff suggested, including denial of the project with the findings in the staff report.

Chair Meigs and Ms. Neal discussed a previous project, when Ms. Neal noted that the majority of the space consisted of two stories, with a few feet constituting a third story. In this instance, a new third story addition was being proposed.

In response to Commissioner Ketcham, the Town Attorney explained that the time limits of the Permit Streamlining Act could not be surpassed by time limits set by the Town's Ordinances. Thus, the shortest time limit would apply.

Ms. Neal confirmed the completion date of the submission of plans and materials for the project in response to the Chair.

Commissioner Hamilton and Ms. Neal discussed the driveway width, which Ms. Neal stated would be brought before the Town Council.

Ms. Neal and the Chair discussed the tiebacks in relation to a neighboring property. They also discussed an easement in relation to the neighboring property, which Ms. Neal said would be necessary.

Commissioner Ketcham and Ms. Neal discussed height and how it was measured.

Chair Meigs expressed concern over privacy issues caused by the third story windows to the neighboring property owner, and Ms. Neal confirmed that the neighbor had not contacted the Town with concerns.

The Chair and Ms. Neal discussed drainage in relation to the driveway wall.

Commissioner Lacques and Ms. Neal discussed a grey-water system, which Ms. Neal confirmed had been withdrawn by the applicant. They discussed the stability of the hillside.

Commissioner Ketcham and Ms. Neal discussed drainage, and Ms. Neal confirmed that the Town Engineer was comfortable that the lot could be developed.

The Chair opened the hearing to the public.

Ted Hugh, applicant, discussed the engineering issues, and the reasons they were requesting the variances. He noted that the request for a wider driveway was in response to the Fire Department. He addressed the design, and noted that they wished to collect grey water and install a ventilation system, which would require the height variance. Mr. Hugh also discussed the window design of the upper floors and the building materials.

In response to the Chair, Mr. Hugh said he had been in contact with Mr. Hoffmann.

Jeff Kroot, project architect, said that the site was extremely challenging, and discussed the reasons for the variances. He addressed the size of the house, and noted that the retaining walls constituted part of the calculations and, thus, the living space requested was fairly modest. He discussed the mezzanine loft and the windows, which served to ventilate the house.

Mr. Kroot also explained why he believed the house did not constitute four stories, partly because the garage should be considered a basement. He discussed the utility room in relation to a grey water system that is desired, and suggested that the height of the utility room could be lowered.

Mr. Kroot noted that parking was needed, and that he believed the house to be in scale with others in the neighborhood. He discussed the FAR, and noted that the variances requested are site specific, and were needed to build on a steep lot, whilst retaining redwood trees. The retaining walls were necessary to make the site safer and he discussed other reasons why the variances should be granted.

He discussed the setback in relation to the neighbors, the Hustons, when he noted that their house was close to the property line.

Chair Meigs and Mr. Kroot discussed the windows on the mezzanine floor, and Mr. Kroot noted that these were landing windows, and thus should not cause privacy issues, but that the sill heights could be raised.

In response to the Chair, Ms. Neal confirmed that ventilation is not required in the Code.

In response to the Chair, Mr. Kroot said he suggested lowering the ceiling height of the utility room so that it could not be used as living space and, thus, would not constitute a story.

Commissioner Ketcham noted the whole of the garage and utility were considered a story, and Ms. Neal explained that the Town Council had issued directions whereby a garage constituted a story, which made the project a four-story development.

Commissioner Ketcham and Mr. Kroot discussed the mezzanine and Commissioner Ketcham suggested design changes that would render the development a three-story structure, and discussion followed between staff and the architect.

Commissioner Lacques discussed ceiling heights with the architect, and solar paneling.

In response to Commissioner Hamilton, Ms. Neal said that variances could only be granted based upon physical features and not on green issues. However, conditions could be added to an approval to ensure that green features that are promised would be incorporated into the structure.

Commissioner Hamilton and Ms. Neal discussed how size was calculated.

Mr. Hugh discussed the foundation, which was designed to ensure a slide would not occur.

Ketcham suggested that changes could be made to the design to reduce the space and negate the necessity of a variance for a fourth level, and Mr. Kroot explained that the physical constraints of the lot have necessitated the variances.

Commissioner Ketcham reiterated his belief that space could be removed and the design changed so that a fourth story could be omitted.

Commissioner Hamilton and Neal discussed the retaining wall and the distance between the wall and the back of the house and the redwood trees.

Chair Meigs and Ms. Neal discussed lot coverage in relation to the patio area.

Commissioner Lacques and Mr. Kroot discussed the north elevation in relation to the Huston's property.

Commissioner Lacques and Mr. Pugh discussed the green features, and Mr. Pugh said he would abandon the green features if he were not able to obtain the fourth story variance.

In response to Commissioner Ketcham, Mr. Kroot discussed the necessity of the stairwell to the mezzanine floor, and Mr. Pugh discussed the reasons he believed his project should be approved.

The Chair announced a 5-minute break at 9.30pm.

Neil Krause, Acacia Road, said that a project in this location could impact him, but that the applicant has done all that was necessary to be considerate to his neighbors. He supported the project.

Kretchen Coles, Acacia Road, said that she appreciated the effort the applicant had made to stabilize the property and had done a good job.

A resident of Acacia Road said she was happy that the hillside would be stabilized and that an attractive house that fits the neighborhood will be built on the lot.

Babs Walker, Acacia Road, said that she had submitted a letter of support. She said that it would be a nice house and the hillside would be stabilized.

Jeff Bickner, Acacia Road, said that the lot was in need of attention and was suitable for a project such as this. He supported the project.

The Chair closed the hearing to the public.

Commissioner Lacques expressed concern that the outcome might not be positive unless the applicant waived his rights to ... under the Streamlining Act.

Commissioner Ramsey said that he appreciated the amount of care that had gone into the design; it was a difficult site; the public would benefit with a stabilized hillside, and the neighbors supported the project. He said that the argument was persuasive that the existence of the fourth floor would not be detected from the street, and he noted that variances were not inherently prescient. The Commissioner supported the project.

Commissioner Ketcham said that the proposal was well thought out, and that exceptions to the rules existed relating to the wall and driveway that would allow variances. However, they had an obligation to uphold the Town Code, and there appeared to be other areas of the property that could be used for construction. Commissioner Ketcham suggested that a variance for developing the front of the property could be more palatable than a variance for a fourth story. He was concerned that on small lots such as this, four-story additions could become the requested exception to the rules. The Town Council drafted an ordinance that allowed third stories, which was not well received, and he did not believe that findings could be made to allow the fourth story. He would, therefore, deny the request for the fourth-story variance for the reasons contained in the staff report.

Commissioner Lacques stated that he appreciated the work that had been put into the design on a difficult lot, and that all the variances requested, with the exception of the fourth-story addition, were necessary in order to construct a residence on the lot. He could not support a fourth-floor variance because a hardship was not being caused and would not be a limitation on building a home. Furthermore, the ceiling of the top floor could be opened in order to provide light, which would not necessitate a fourth floor. The variance request for a fourth story was too large and he would not wish to set a precedent. He supported the project, other than the variance for the fourth-story addition.

Commissioner Hamilton complemented the applicant on his design that has gained his neighbors' support, but they needed to consider the town as a whole. She would like to make the finding for the variance for the fourth story, but the green aspects that are planned for the project

could be incorporated into a three-story residence. She suggested that a front setback variance could be granted but that the fourth story was not a necessary feature that would warrant a variance.

Chair Meigs stated that everyone had worked hard on the project, but that the political will or an Ordinance did not exist to allow a four-story residence. She had not seen so many variance requests or so much excavation in one package. She could not support the project with a fourth story and Commissioner Ketcham and staff had made alternative suggestions.

General discussion followed, and staff confirmed that a different design without a fourth story had not been presented for consideration, and Commissioner Lacques noted that the Commissioner had been generous with the other variances.

Chair Meigs stated that the Town Code protected the town and its character and that it forbade a fourth story.

Discussion on the way forward followed. The Attorney explained the options available to the applicant.

The applicant waived his rights under the Permit Streamlining Act.

M/S, Lacques/Ketcham, Motion to continue application # 08-46 for a Hill Area Residential Development Permit, Front Setback Variance, Combined Side Yard Setback Variance, Height Variance for a 4-story building, Encroachment Permit and an Excavation Permit to construct a 2,184sf single-family residence with an attached 583sf two car garage for a total square footage of 2,767sf upon the consent of the applicant to submit new plans to the Planning Commission with the understanding that the applicant has waived his rights under the Permit Streamlining Act.

AYES: All

Consideration/adoption of a Resolution 08-04, A Resolution of the Planning Commission that Recommends that the Town Council Adopt the Mixed-Use Overlay Zone Expanded Design Guidelines.

Chair Meigs stated that there were items included in the Resolution that the Subcommittee did not discuss. She further believed that the word 'Regulations' should be substituted for 'Guidelines', which would be more suitable.

Commissioner Hamilton agreed with the substitution and suggested other changes.

Commissioner Lacques stated that language should be added that the guidelines apply to properties in the Mixed Use Overlay Zone and did not apply to the whole town. Discussion followed.

M/S, Hamilton/Ramsey, Motion to adopt Resolution 08-04, A Resolution of the Planning Commission that Recommends that the Town Council Adopt the Mixed-Use Overlay Zone Expanded Design Guidelines with amendments.

Chair Ketcham said that he appreciated the proposed green building upgrades.

M/S, LaMotte/Lacques, Motion to approve Application # 10-03: Request for a Use Permit, Floor Area Ratio Variance and Combined Side Yard Setback Variance to construct a 208 square foot dining room addition to an existing 988 square foot single-family residence at 40 Merwin Avenue.

AYES: All

Chair Ketcham read the appeal rights.

4. 36 Merwin Avenue, application # 10-0: Request for a Use Permit and setback variances to construct a 1,445 square foot, two story addition to an existing 812 square foot single-family residence (107 square feet of existing to be removed); Assessor's Parcel No. 002-111-04; Residential Multiple Family RM Zone; Rowan and Vikki Fennell, applicants/owners: CEOA categorically exempt, § 15301(e)(2).

Commissioner LaMotte excused herself from the meeting at 10.25 p.m. and Senior Planner Neal presented the staff report. She explained that the lot was large but that a creek ran through the property. Since the lot was in the flood zone, the floors would need to be elevated above the flood plain. She discussed the discretionary permits.

Ms. Neal also addressed the required creek setbacks and staff's concern regarding the portion of the addition which would encroach the side yard setback of the neighboring property. Ms. Neal also discussed the parking variance. She noted staff's recommendation that the project be continued for redesign because the number of variances requested suggested that the addition was too large for the lot.

In response to Chair Ketcham, Ms. Neal discussed the Permit Streaming Act in relation to the project.

In response to Commissioner Meigs, Ms. Neal said that storm water runoff had not been studied because the lot was flat. She noted that the property was not in the urban wildland interface zone.

Rowan Fennell, applicant, discussed the project. He explained how they wanted to provide sufficient space from the creek which resulted in the need to encroach the side yard setback.

Mr. Fennell and Vice-Chair Hamilton discussed other options that had been considered.

Sarah Deeds, project architect, discussed the reasons why lifting the house would have caused problems, including the disruption of the floor plan and porch design. She said that they shifted the addition closer to the neighbor in order to meet the 20 foot creek set back. Ms. Deeds said that if the addition could be moved closer to the creek, there would not be a need to request multiple variances.

In response to Commissioner Meigs, Ms. Deeds said that it was assumed the storm water runoff would go into the creek.

Chair Ketcham opened the hearing to the public.

John Molloy, Merwin Avenue, said that he supported the project, although he expressed concern that the height and size of the wall directly next to his property might seem too imposing.

Vice-Chair Hamilton said that she would be amenable to the addition being shifted towards the front of the property in order to provide a 5 foot setback from the neighbor's side.

Commissioner Goyan said that it was hard to design an addition for the lot and that he could see the difficulty in lifting a house so close to the creek. However, he said that the addition would be too close to the neighbor's property line and that screening and drainage plans should have been included for discussion.

Commissioner Meigs said that she supported some of the ideas put in the staff report.

Commissioner Lacques said that he applauded the inclusion of energy efficient ideas in the plans but that the mass was intimidating on the neighbor's side. He believed that the plan was too ambitious for the site and that it needed to be more modest.

Chair Ketcham said that the structure would be massive in comparison to the present building and that he also remained concerned with the mass and height of the back structure. He noted that they were incorporating a huge mass on a limited part of the lot. He noted that more runoff would be produced that would need to be managed, and thus a drainage plan would be helpful, and that he was concerned that the second floor roof deck would cause privacy issues with the neighbor.

Vice-Chair Hamilton discussed an amendment to the design. Planning Director Moore suggested that the plate heights could be reduced in order to reduce the height of the structure without eliminating square footage and he noted that there was ancillary space that could be reduced to make the house smaller.

Ms. Deeds and Ms. Neal discussed the creek setbacks and a possible exemption to covered parking.

The applicants agreed to waive their rights with regard to the Streamlining Act, should it not be possible for them to appear at the next meeting.

M/S, Hamilton/Goyan, Motion to continue application # 10-0; Request for a Use Permit and setback variances to construct a 1,445 square foot, two story addition to an existing 812 square foot single-family residence (107 square feet of existing to be removed) with the provision of a drainage plan at 36 Merwin Avenue to a date uncertain.

AYES: All

Commissioner Madsen asked Mr. Sergent why he was opposed to the request for preferential parking if he had plenty of parking at his residence.

John Sergent said long time residence should be given more consideration than new residence; that Mr. Jamal is adding onto his house extensively; that the addition is imposing on the privacy of a neighbor on Madrone Court.

P. R. Ryerson, 60 Madrone, said Mr. Jamal spent his own time and money to built these retaining walls to create parking; that previously during the winter as the soil would get soft people were parking further into the roadway and closer to their driveway approach. He also said the two lower spots were not sufficiently wide enough and you could barley get by on the road if cars were parked there. He closed by saying he felt the request for preferential parking should be granted.

Commissioner Hailer asked Mr. Ryerson about the area there that was previously used for parking.

Mr. Ryerson said in one of the areas the shoulder was 18 inches wide; that he felt they were unsafe; that he never parked there; that if cars were parked there emergency vehicles could not get past. He said the other area was OK in the summer but that during the winter the area was slippery and unsafe and that cars would park further and further into the roadway as the rainy season progressed.

Emma said the reason she had asked Ms. Ewald not to park where she was parked was because she was partially blocking their driveway and she could not get out.

Commissioner Madsen asked staff if the Town Attorney was consulted about the liability issue.

Senior Planner Neal said no. She said the applicant could ask his attorney if there was a way to leave it public parking and also address the liability issue and then the Town Attorney could review the proposal to determine if it was acceptable to Town. She said however if the item was continued the Commission would have to ask the applicant to waive his rights under the permit streamlining act.

Commissioner Hailer said she does not interpret the ordinance as requiring an applicant to spend 10 thousand dollars per parking space; that the Commission does need to think of the long term and the fact that the property could be sold in the future; that maybe their should be a deed restriction on the property that would state when the property is sold the parking areas would revert to public parking.

Commissioner Meigs said that parking is tough in the hills; that she may be in favor of granting one parking space and that she would like the Town Attorney to review the ordinance before a decision is made.

Senior Planner Neal said if the Town Attorney were to review the ordinance before a decision was made the item would have to be continued off calendar and the applicant would have to agree to waive his rights under the permit-streamlining act.

Commissioner Meigs asked Mr. Jamal if he was willing to waive his rights under the permit streamlining act.

Rida Jamal said he would like a decision and that he was not willing to waive his rights under the permit streamlining act.

M/S Arguimbau-Meigs motion to approve one parking space to be designated as private preferential parking.

ROLL CALL

AYES: Meigs, Arguimbau

NAYS: Madsen, Hailer