

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA TELECONFERENCE
THURSDAY, JANUARY 11, 2024

Call to Order/Roll Call:

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

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

Staff Present: Jeffrey Beiswenger, Planning Director
Linda Neal, Principal Planner
Janet Coleson, Town Attorney
Kylie Otto, Assistant Town Attorney
Ms. Jin, Attorney with BBK
Mark Lockaby, Building Official

APPROVAL OF AGENDA

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PUBLIC HEARING ITEMS

- 1. Consideration for recommendation to the Town Council the following:
A Resolution of the Fairfax Planning Commission recommending the Town Council Adopt an ordinance to amend the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code to implement Program 2-A of the Fairfax Housing Element, to create a workforce housing overlay: 17.012 (Zone Districts Established)| 17.092 (CL Limited Commercial Zone); 17.096 (CH Highway Commercial Zone); 17.100 (CC Central Commercial Zone). Adoption of this ordinance has been analyzed as part of the EIR prepared for the 2023-31 Housing Element project.**

Planning Director Beiswenger presented the staff report. Mr. Andrew Hill, representing Dyett and Bhatia, presented a PowerPoint presentation. Mr. Hill and staff answered questions from the Commission regarding applicable zones; Housing Element Map 3-5 and Program 2-A; “by right” approvals; how an owner would express an interest in participation; height limits; if Victory Village required prevailing wages; densities; sliding scale affordability provisions and density provisions in relation to parking requirements; the intent of some of the revisions including Chapter 17.100; if the Zoning Map would need to be amended; the minimum and maximum density for WHO-A and WHO-B; why there are no references to the RS-6 and UR-7 Zones in the provisions; standards that would apply to future property owners seeking to get properties in the overlay zone; if there would be an element of discretion on the part of the Commission; Table 17.126.020A; ministerial approval projects; if these ordinances match State Law in terms of when wage standards would be required; how ground floor level and below grade parking levels are counted in terms of a “story”; if mixed-use in commercial zones has been incentivized; Footnote #1 and whether Fairfax is consider a non-compliant General Plan jurisdiction; what needs to be done to be compliant; historic structures; how HCD views units not built.

Chair Jansen opened the Public Hearing.

Mr. Rick Hamer, School Street Plaza, made the following comments:

- He has a question about how height is measured.
- He was concerned about the abandonment of the street between the School Street Plaza site and the Bank of America site.

Mr. Todd Greenberg made the following comments:

- He asked about the definition of “affordable housing”.
- The RHNA numbers, the basis of this proposal, are deeply flawed.
- He wondered if this proposal could be considered “spot zoning”.

Mr. Frank Egger made the following comments:

- The proposed densities do not take into consideration the constraints of properties.
- He was concerned about how 65’ high buildings would impact Sir Francis Drake Boulevard.
- He was concerned about the cost of fire insurance.

Ms. Jane Richardson made the following comments:

- They must resist.
- The proposal is flawed.
- She was concerned about evacuations.

Mr. James Cosgrove, Bay Road, made the following comments:

- He had questions about the parking requirements and density bonuses.
- Residents are entitled to a reasonable quality of life.

Chair Jansen closed the Public Hearing.

Commissioner Bela provided the following comments:

- He is concerned that by adding prescriptive requirements they are doing the opposite of what they are intending to do.
- The idea of increasing lot coverage is a not a good idea and will result in bad architecture.
- There is an arbitrary concern about additional height.
- They should be making it easier to build affordable projects and would like to see more incentives.
- He addressed some of the public comments.

- He would like to see graphics that provide examples of tastefully done in-fill housing that show the implications of the ODDS.

Commissioner Newton provided the following comments:

- She did not think they could delay taking action on this item.
- She responded to some of the public comments.
- She asked if they should recommend a WHO-A1, a WHO-A2, a WHO-B1, and a WHO-B2.

Commissioner Kelly provided the following comments:

- There are opportunities for more density and bigger buildings in town.
- He did not want to lose commercial spaces to housing.
- He wanted to “amp up” the mixed-use aspect.

Commissioner Feffer provided the following comments:

- He referred to the height requirements and suggested a separate code section that allows for code exemptions in a more traditional planning process. It should be reviewed on a case-by-case basis.
- They cannot look at these ordinances in a vacuum and need to consider the implications of non-compliance.
- He referred to affordability and targeting low income housing and had an issue with the categories. He would like to keep the “for sale” and “rental triggers” at moderate and low.
- There should be a simple solution to the labor standards.

Commissioner Swift provided the following comments:

- This is being called workforce housing but it is affordable housing- there is no requirement for employment.
- She is concerned that there are two identified sites outside of the commercial area.
- She is concerned that a commercial building might be converted to 100% residential.
- She is worried this could result in the loss of jobs and services.
- She is concerned about the lack of parking and ingress/egress issues.

Commissioner Newton provided the following comment:

- She discussed income categories and stated they do not want to create something that does not allow for affordable housing at all.

Chair Jansen provided the following comments:

- It is important to move this forward notwithstanding all the concerns.
- He summarized the concerns including the whether the map or the table is being used for the properties; an edit regarding a Special Meeting vs. a Regular Meeting or Study Session; the footnote on page 11 regarding noncompliance; a bonus for commercial spaces on the ground floor; provide visuals for the Town Council meeting; the desire to focus on the low to very low income; clarification regarding the two non-commercial parcels; concern about the reduction in the required parking as a bonus.

Commissioner Newton provided the following comment:

- She suggested edits to the document.

M/s, Newton/Kelly, motion to adopt a Resolution of the Fairfax Planning Commission recommending the Town Council Adopt an ordinance to amend the following chapters of Title 17 (Zoning) of the Fairfax Municipal Code to implement Program 2-A of the Fairfax Housing Element, to Create a workforce housing overlay: 17.012 (Zone Districts Established) 17.092 (CL Limited Commercial Zone); 17.096 (CH Highway Commercial Zone); 17.100 (CC Central Commercial Zone) and address the nine comments listed by Chair Jansen.

AYES: Bela, Kelly, Newton, Chair Jansen
NOES: Feffer, Swift

Town Attorney Coleson stated a positive recommendation requires five affirmative votes so this will proceed to the Town Council with a negative recommendation.

The Commission took a 5-minute break at 9:50 p.m.

2. 79 Wood Lane; Application #21-17

Hearing/discussion on the project progress for a determination of whether or not the development to date is complying with the conditions of approval placed on the project by the Planning Commission in approving Resolution No. 2022-01, “A Resolution of the Fairfax Planning Commission Conditionally Approving Application No. 21-17 for a Hill Area Residential Development Permit, Design Review Permit, Excavation Permit, and Tree Removal Permit, a Minimum and Combined Side-Yard Setback Variance and a Retaining Wall Height Variance for a Residence at 79 Wood Lane with a detached garage/ accessory dwelling unit”. A determination of non-compliance may result in modification or revocation of permit #21-17 in accordance with Town Code Section 17.024,080, authority to Revoke or Modify. APN #002-062-03; RS-6 Residential Single Family Zone; Coby Friedman, applicant/owner. CEQA Categorically Exempt per Section 15303(a)

Principal Planner Neal presented the staff report. Staff answered questions from the Commission regarding whether one of the requirements is to provide “as built” plans; steps that could be taken to weatherize the site (“batten down the hatches”); if the drainage system is in place; if the applicant has submitted additional documentation of changes from the approved plans; if a second driveway has been built and if two trees were removed without approval; if the overall project is a shift from what was originally presented; the implications of revoking the permit; if a revocation could be appealed to the Council.

Chair Jansen opened the Public Hearing.

Mr. Richard Harris, attorney for Mr. Friedman, made the following comments:

- The court order of October stated Mr. Friedman was entitled to a hearing prior to any suspension of his permit.
- The Red Tag has not been removed.

Mr. Coby Friedman, owner, made the following comments:

- He started construction in the summer of 2022.
- This is not a spec construction.
- Current construction was reviewed by his engineer and up to code.
- He would like to continue to work and submit plans by March 5th.

Mr. Robert Eckhart, Wood Lane, made the following comments:

- The applicant should have followed the approved plans.
- The current building has a boxy, Motel 6 look to it.
- He asked the Commission to revoke the permit and direct the applicant to revise the exterior to be as close to the approved plans.

Michael made the following comments:

- Mr. Eckhart’s characterization of the building is unfair and irrelevant.
- He is not sure about the purpose of this meeting since it does not seem there is any violation on the part of the applicant.
- They should let the applicant finish his project.

Mr. Harris made the following comment:

- The best course of action is to push out a decision to allow the applicant to continue work and approach all of the changes at that time.

Chair Jansen closed the Public Hearing.

Commissioner Feffer provided the following comment:

- Construction that has not been approved should be suspended.

Commissioner Swift provided the following comments:

- The original resolution stated that modifications and changes would need to be approved by the Commission.
- The applicant has not stated that he would be willing to submit plans before the project is completed.
- She is not sure what a suspension would do and she would support revoking the prior resolution.

Commissioner Kelly provided the following comments:

- He discussed his prior comments on the project.
- The Commission spent a lot of time on this project.
- He agreed with Commissioner Swift- revocation could be in order.

Commissioner Newton provided the following comment:

- She opposed approving something after it is already built.

M/s, Newton/Bela, motion to adopt Resolution No. 2024-02, with typographical corrections, and a continuation of the hearing to May 16, 2024. The applicant has 15-days to install jute netting, hay, or wadding on the site so mud does not flow into the street. There will be no construction done on the building.

AYES: Bela, Feffer, Newton, Chair Jansen

NOES: Kelly, Swift

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

Discussion Items

There are no discussion items.

Minutes

There are no minutes to review.

Commissioner Comments and Requests

Commissioner Swift asked about posting comments on the Town Website prior to a meeting.

Commissioner Swift thanked the Building and Planning Departments for their great work- they are da bomb!

Commissioner Newton noted that the Council will decide, at a certain time during the meeting, whether or not to move forward with or continue the remaining items. She asked if the Commission wanted to do the same.

Planning Director's Report

Planning Director Beiswenger reported staff would like to present a “work plan” to the Commission at an upcoming meeting.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:16 p.m. .

Respectfully submitted,

Toni DeFrancis,
Recording Secretary