

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA ZOOM
THURSDAY, SEPTEMBER 19, 2024

Call to Order/Roll Call:

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

Commissioners Present: Robert Jansen (Chair)
 Brett Kelly
 Mimi Newton (attending remotely)
 Daniele Petrone
 Cindy Swift

Commissioners Absent: John Bela
 Philip Feffer

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

APPROVAL OF AGENDA

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Mr. Fritz Dern, Olema Road, discussed the artist studio at 10 Olema and expressed numerous concerns.

Ms. Jennifer Carr, Olema Road, agreed with the previous speaker. She is concerned about the current situation and what could happen in the future.

Ms. Debra (Dee Lee) Benson, Cascade Drive, agreed with the previous speakers and noted the property has been red tagged.

Lynn was concerned about the sign at the corner of Sir Francis Drake Boulevard and Marinda Drive that says "Charter School". The sign has to go.

Krista, Olema Road, stated there should be more communication about 10 Olema Road. She is concerned about a "bait and switch".

Mr. Rick Hamer asked the Commission to keep 10 Olema Road on the "to do" list. It is not zoned for retail.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. 16 Cypress Drive; Application #24-11

Request for a Conditional Use Permit and Variance(s) to remodel and expand by approximately 328 square feet an existing single-family residence resulting in a 1,713 square foot residence and legalization of a garage conversion into storage/living space; AP # 003-202-05; RS-6 Residential Single Family Zone; Dane Patunoff, applicant/owner; CEQA Categorically Exempt per Section 15301(e), 15303(e), and 15305(a).

Principal Planner Neal presented the staff report. Staff answered questions from the Commission regarding if there were comments from the neighbors; proposed exterior lighting.

Chair Jansen opened the Public Hearing.

The applicant made the following comments:

- This is a technically a three bedroom house but is more like a two bedroom house. The third bedroom is an enclosed porch.
- They tried to keep the project minimal and in character with the building.
- They tried to respect the required setbacks.
- The front porch is a way to provide a level roof plane and level landing in the front while retaining the neighborly inviting design of the front of the house.
- The lighting will be sensitive to the neighborhood. They are open to ideas.

The applicant answered a question from the Commission regarding if the parking spots would be paved.

Chair Jansen closed the Public Hearing.

Commissioner Kelly provided the following comments:

- The porch is a great addition.
- He supports the project.

Commissioner Swift provided the following comment:

- She would like to add the Dark Sky requirement to the resolution.

M/s, Swift/Kelly, motion to adopt Resolution No. 2024-14 to include the condition suggested by Principal Planner Neal and the Dark Sky requirement as suggested by Commissioner Swift

AYES: Kelly, Newton, Petrone, Swift, Chair Jansen

ABSENT: Bela, Feffer

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

2. 59 Wood Lane; Application #24-12

Request for a Hill Area Residential Development Permit, Excavation Permit, Design Review Permit and Variances to construct a 2,064 square foot, single-family residence and a 551 square foot garage/accessory dwelling unit including a 6-foot tall front fence; AP # 002-081-02; RS-6 Residential Single-family Zone; Sutton Cunningham, applicant, Steve and Kim Smith, owners; CEQA Categorically Exempt per Section 15303(a) and (e) and 15305(a)

Principal Planner Neal presented the staff report. She noted staff is recommending an additional Condition of Approval. Staff answered questions from the Commission regarding whether there is a technical reason for the placement of the ADU in the setback; the code regulating the front fence; if it

is typical for a narrow lot in a hillside area to require numerous variances; if the Design Review application is for the house and the ADU together.

Chair Jansen opened the Public Hearing.

Mr. Sutton Cunningham, applicant, made the following comments:

- They did not want to have the garage door facing the street.
- The fence is not a full six foot solid fence- it is four feet high and open at the top two feet.
- They are trying to make some private space for the ADU.
- The lot is thin with a tight side setback on one side.
- The site is challenging.
- The soils report indicates the best place to build is on the hill (solid rock, etc.).
- This is a smaller house and they are not trying to max out everything.
- The house is WUI compliant and fire protected.
- They changed the gable roof to a shed roof for solar.

Mr. Cunningham answered questions from the Commission regarding whether the fencing attaches to the ADU and if it is all wood; who would occupy the ADU and if it would be rented out; who would occupy the house; if he would considered moving the ADU back four feet; the value in having a six foot vs. a four foot high fence; how to access the garage without moving the other two cars; the letter sent by the neighbor about the desire to limit the window-to-window visibility.

Mr. Jeff Mahaney, Wood Lane, made the following comments:

- He lives across the street.
- He thanked the owners/applicant for doing something with the property.
- He likes the approach.
- His only concern is that the ADU and garage are out of character with the main house.
- The parking spaces need to work as best as they can.

Chair Jansen closed the Public Hearing.

Commissioner Kelly provided the following comments:

- He was concerned about a “wallification” of Wood Lane.
- He was opposed to tall fences that cut off visual communication between houses.
- The ADU with the shed roof is over the setback by four feet and the highest point of the structure. It will feel massive.
- He asked if a “turn radius study” was done for the garage. He was not sure it is meant to be used as a garage.
- A four foot fence vs. a six foot fence is a big deal for the community.
- The lot configuration warrants a Combined Side Yard Setback Variance.

Commissioner Petrone provided the following comments:

- Variances should be granted sparingly.
- He discussed the “low hanging fruit” of the requested variances.

Commissioner Swift provided the following comments:

- She discussed home hardening techniques and the current recommendation that a wooden fence should not touch a structure.
- She agreed with the comments made about variances and when they should be requested.
- She agreed with Commissioner Kelly about the four foot vs. six foot high fence and what it means for the neighborhood feel.
- She is concerned about the ADU in the setback.

Chair Jansen provided the following comments:

- The four foot height limit in the front of the house is to allow the public to see the property.
- It is difficult to make the findings for the fence and the setback- it is new construction.
- The concerns were the fence, the setback, the operation of the garage, and the architectural expression of the unit.

Commissioner Newton provided the following comments:

- The appearance of the frontage of the ADU seems to be a concern along with the fence height.
- She supports maximizing the ability to use solar.

Mr. Cunningham made the following comments:

- The fence height is not a problem.
- They could move the building so it is eight feet instead of ten feet.
- They are trying to get as much solar.
- They cannot flip the building.
- They are willing to adapt the building and he would be in favor of a continuance.

M/s, Swift/Kelly, motion to continue the application for a period not to exceed 90 days and direct the applicant to address the following comments; 1) Moving the project out of the setback; 2) The fence height; 3) Having the shed be more in character/architectural design with the house.

AYES: Kelly, Newton, Petrone, Swift, Chair Jansen

ABSENT: Bela, Feffer

**3. Consideration and Recommendation to the Town Council the Following;
A Resolution recommending the Town Council adopt an ordinance to amend Town Code Title 17 (Zoning), Chapters 17.008 ('Definitions'), 17.052 ('Off-Street Parking and Loading Requirements'), 17.076 ('RS-7.5, Single Family Residential Zone, Medium Density'), 17.080 ('RS-6 Single Family Residential Zone, High Density'), 17.084 ('RS-5.5-7, Residential Zone, High Density'), 17.088 ('RM Multiple-Family Residential'), 17.092 ('CL Limited Commercial Zone'), 17.096 ('CH Highway Commercial Zone'), 17.100 ('CC Central Commercial Zone'), and 17.124 ('UR Upland Residential Zone'), to regulate short-term rentals. CEQA Categorically Exempt per Section 15301, Existing Facilities**

Planning Director Beiswenger presented the staff report and a PowerPoint presentation. Staff answered questions from the Commission regarding whether staff has given consideration to increasing the rate of the Hotel User Tax (HUT); if consideration has been given to limiting the number of calendar days that a unit can be rented; if there is only one hotel in Fairfax; the number of rooms in the Fairfax Inn; if staff has considered the idea of including multi-unit buildings; how staff determined that approximately 96 short-term rentals were out there but inactive; if any of the ten short-term rentals that have registered are ADU's or JADU's created before 2020; if some property owners are choosing to list residential units as STRs instead of renting them out on a longer-term basis; if the mention of ADU's includes JADU's; the definition of an "investor property"; if using an ADU as a short-term rental eliminates it in terms of the RHNA numbers; rental of a unit for longer than 30 days; if a CUP process would be feasible; what other jurisdictions are doing; how many short-term rentals are occurring in ADU's countywide; how complaints are handled; how many of the complaints received about STRs is related to parking; if staff has considered creating a "guideline for neighborly conduct".

Chair Jansen opened the Public Hearing.

Mr. Chris Alexander, Taylor Drive, made the following comments:

- He has pursued registration but does not qualify because of insufficient parking.
- The current STR parking requirement favors more affluent property owners.

- He depends on his AIRbnb to live at the residence.

Ms. Linda Barry, Scenic Road, made the following comments:

- She was denied registration due to the parking restrictions.
- It would be too expensive to create more parking.
- Her unit is not appropriate for a long-term rental.

Mr. Gianni Richards made the following comments:

- He agreed with the other speakers.
- He owns a duplex that was formerly a long-term rental but is now a short-term rental.
- He tried to register but was declined.

Mr. Richard Pedemonte, Baywood Court, made the following comment:

- He described the ideal short-term rental situation.

Mr. Michael Sexton made the following comments:

- He owns a duplex.
- He supported the least restrictive and most permissive STR regulations.

Mr. Jeff Mahaney, Wood Lane, made the following comments:

- He owns a duplex.
- He agrees with what has been said by the previous speakers.
- They are trying to fix something that is not broken.

Mr. Rick Hamer made the following comments:

- Notice should be given about the operation of a STR.
- Every year the Town should do a review.

Mr. Eric Stromber, Mono Avenue, made the following comments:

- He is one of the nine rejected because they are in the wrong zone.
- He would like the option of renting the ADU on a short-term basis.
- He would not rent it long-term.

Mr. Debra Benson, Cascade Drive, made the following comments:

- They are fooling themselves if they say short-term rentals do not replace long-term rentals.
- She is opposed to changing the regulation that would allow a duplex to be rented as a STR.
- Parking regulations need to be kept intact.
- There should be a limit to the number of days.

Chair Jansen closed the Public Hearing.

Commissioner Swift provided the following comments:

- She has concerns about the balance of maintaining the rental stock.
- Parking is a concern especially on the narrow roads.
- She is concerned about expanding this without any limits.

Commissioner Petrone provided the following comments:

- There are jurisdictions in Marin that have a higher Transient Occupancy Tax (TOT) rate.
- He acknowledges the housing crunch and the need to provide additional units.
- He questioned the staff recommendation to ban ADU STRs outright.
- He is in favor of opening this up to all zones where there is housing.

Chair Jansen provided the following comments:

- The discussion needs to be separated into the different topics.
- They need to be more careful with ADUs and duplexes.
- Term limits should be set for entire houses.

Commissioner Newton provided the following comments:

- She was in favor of as much affordable housing stock as possible.
- Agrees that the discussion should be separated into different topics
- She is concerned about keeping ADUs and JADUs in the RHNA numbers.
- She was not sure she wanted to overhaul the current framework.
- She was in favor of limiting the number of days for a short term rental.
- She has no problem with allowing short-term rentals in other zoning districts.

Commissioner Kelly provided the following comments:

- He would like to come up with a way to incentivize, and not penalize, long-term rentals.
- He referred to the staff list of regulations that should be kept in place and stated he would be in favor of getting rid of all of them.
- A safety inspection should be required.
- Rates of fees for investors or people that have more than three rental units should be tiered.
- He would like to disincentivize investor properties and not penalize “mom and pop” folks.
- He was not in favor of requiring an additional parking spot.
- All units should be allowed to be used as a short-term rental and regulated in a different way such as the number of days or fees.

The Commission took a 10-minute break.

Planning Director Beiswenger discussed the recommended changes to the ordinance.

M/s, Newton/Swift, motion to continue this item to the next meeting.

AYES: Kelly, Newton, Petrone, Swift, Chair Jansen

ABSENT: Bela, Feffer

Discussion Item

4. Dark Sky Ordinance

Planning Director Beiswenger presented the staff report. Staff answered a question from the Commission regarding what is meant by the term “foot candles” and how it relates to lighting.

Chair Jansen opened the Public Hearing.

Lynn made the following comments:

- The report and presentation was very good.
- Shields on streetlights are helpful.
- She was concerned about the resort commercial recreation style string lights. They are very bad and should not be allowed.

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

- She is glad progress is being made on this issue.
- The LED street lights are a problem.
- She would like to be able to see the stars.

Chair Jansen closed the Public Hearing.

Commissioner Swift provided the following comments:

- The questions about streetlights need to be answered.
- This issue should incorporate the whole community including signage in the business community.
- The policy needs to be comprehensive.

Chair Jansen provided the following comments:

- He was not in favor of an exception regarding shielding for lower output light fixtures. He was concerned about the aggregate effect.
- He was not in favor of limiting shielding requirements based on the power of the bulb itself.
- 2,000 lumens are very powerful and this level should be fine-tuned.
- The policy should apply to all new construction and an end date should be set for compliance on existing construction.
- Light pollution is extremely disruptive to wildlife.

Commissioner Newton provided the following comment:

- She was concerned about the effects to all flora and fauna.

Planning Director Beiswenger stated this item will be continued and he would invite the Public Works Director and/or a representative from DC Electric to attend a future meeting to discuss streetlights.

Minutes

5. Minutes from the August 15, 2024 meeting

M/s, Swift/Kelly, motion to approve the August 15, 2024 minutes as corrected.

AYES: Kelly, Newton, Petrone, Swift

ABSTAIN: Chair Jansen

ABSENT: Bela, Feffer

Planning Director's Report

Planning Director Beiswenger stated he had nothing else to report.

Commissioner Comments and Requests

Commissioner Swift referred to Public Hearing Item #3 and suggested a change in the title. She would like to see the public comments included in the agenda on the Town Website.

Commissioner Newton asked staff to report back on the 10 Olema Road issue and the charter school sign issue brought up during Open Time.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:21 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary