

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA ZOOM
THURSDAY, OCTOBER 17, 2024

Call to Order/Roll Call:

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

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

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

APPROVAL OF AGENDA

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 58 Ridge Road; Application #24-13**
Request for a Conditional Use Permit to remodel and expand an approximately 1,391 square foot, two bedroom, 1.5 bathroom single-family residence by approximately 118 square feet, resulting in an approximately 1,509 square foot, two bedroom, 1.5 bathroom residence; AP # 001-061-27; RS-6 Residential Single Family Zone; Laura Kehrlein, applicant; Erica Smith, owner; CEQA Categorically Exempt per Section 15301(a), & (e)(1).

Associate Planner Spencer presented the staff report. She suggested a change to the last sentence in Condition of Approval #2 and an additional Condition of Approval as suggested by a Commissioner regarding mitigation for potential impacts on nearby nesting Spotted Owls. Staff answered questions from the Commission regarding the Condition of Approval regarding the owls; if the project needs a CUP because it is on a non-conforming lot.

Commissioner Newton joined the meeting.

Chair Jansen opened the Public Hearing.

Ms. Laura Kehrlein, architect, made the following comment:

- The small addition would improve the livability of the house.

Chair Jansen closed the Public Hearing.

There were no comments by the Commission.

M/s, Bela/Swift, motion to adopt Resolution No.2024-16 with the changes suggested by staff.

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

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

2. 88 Toyon Road; Application #24-14

Request for a modification of a previously approved Hill Area Residential Development Permit, an Encroachment Permit, and an accessory structure Height Variance to modify the approved parking replacing the circular driveway with a combined parking pad/ bicycle storage shed, install stepped retaining walls with a planting strip between them above the existing swimming pool/spa, and legalize a retaining wall within the Toyon Road right-of-way constructed to create a planting bed west of the driveway entrance; AP # 003-081-39; RS-6 Residential Single-family Zone; Gregg Foster, applicant, Greg and Sarah Foster, owners; CEQA Categorically Exempt per Section 15303(e) & 15305(b)

Principal Planner Neal presented the staff report. She noted one addition to Condition of Approval #19. Staff answered questions from the Commission regarding whether there were specifications on the exterior lighting; the size of the area that requires an Encroachment Permit; if all the required parking is on the property; if two of the proposed four parking stalls were on public property; if a parking spot developed on public property can be designated for personal/private parking; if the Town has a list of those properties that have gone through that process; if staff received comments from neighbors in opposition to what is proposed.

Chair Jansen opened the Public Hearing.

Mr. Greg Foster, applicant, made the following comments:

- While they were remodeling/expanding the house they were focused on the house and realized the driveway is too steep and inconvenient.
- They do not have a garage and want to create bicycle storage.
- The planting area was a “neighborhood improvement project”.

The applicant answered questions from the Commission regarding whether the driveway slopes up to meet grade level at the street level; if the planting area depicted in Plan A101 follows existing grade; if there would be four tandem parking spaces.

Chair Jansen closed the Public Hearing.

Commissioner Bela provided the following comment:

- The proposed parking plan is a better solution and will create a nicer front door experience.

Commissioner Kelly provided the following comment:

- They probably have a parking problem with weekend hikers and might need to reserve that on-street spot.

M/s, Swift/Newton, motion to adopt Resolution No.2024-17 with the addition recommended by staff to Condition of Approval #19 and the addition of a Condition of Approval for Dark Sky compliance. AYES: Bela, Feffer, Kelly, Newton, Petrone, Swift, Chair Jansen

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

3. Continued Consideration and Recommendation to the Town Council amendments to Regulations related to Short-Term Rentals

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'), 17.084 ('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) to regulate short-term rentals.

Planning Director Beiswenger presented the staff report. Staff answered questions from the Commission regarding the definition of the term "per property"; number of required guest parking spaces; the appeal process and how staff would get feedback from neighbors; how many short-term-rental (STR) applicants are ineligible due to the off-street parking requirements; cost recovery, enforcement, fines, and penalties; if previous denials would continue to be denied after implementation of these recommendations; how this applies to duplexes; if an advertising platform would remove a unit that is not legal; criteria for a waiver for parking spaces and method for appeal; whether the Council would be reviewing this recommendation before the upcoming election; code compliance regarding rooms over a garage; if a tenant in an apartment needs to show proof that they have permission from the owner to Airbnb the unit; parking regulations for apartment STR's; how a "mom and pop" B&B in a residential zone would be impacted; if a bedroom and bathroom over a garage is an ADU; how the neighbors are brought into the process with respect to the parking provisions; if a neighbor notification process would be possible; if the waiver grants an applicant a Conditional Use Permit (CUP).

Chair Jansen opened the Public Hearing.

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

- He discussed his situation and how it should be an exception.
- They have ample off-street parking, a private entrance, a big demand, and zero impact.
- The 60-day limit does not make sense for him given the big demand.

An individual from Taylor Drive made the following comments:

- She has been renting rooms in her single-family home for over nine years.
- Sixty days a year would be difficult.
- She was denied due to the parking requirements.

Dr. Linda Berry, Scenic Road, made the following comments:

- Airbnb pays the Town of Fairfax the User Tax directly.
- She was denied due to the parking requirements.
- She rents out a room with a bathroom through Airbnb. She depends on this income.

Mr. Scott Hochstrasser made the following comments:

- He owns the property across the street from Town Hall.
- He discussed the Gordian Knot that needs to be untied with respect to the building he owns that is zoned CH.

- The Conditional Use Permit for this property allows a business upstairs and residential use downstairs.
- The proposed ordinance would not allow for a short-term rental.

Mr. Michael Sexton made the following comments:

- He owns a duplex.
- He is not sure how they are going to avoid any detrimental effects to some people.
- He asked: What is the problem they are trying to solve?
- The regulations will cause problems.

Ms. Susan Brandborg, Dominga Avenue, made the following comments:

- There are quite a few Airbnb's in the area and they cause parking problems.
- The lack of parking in the downtown area adds to the problem.

Chair Jansen closed the Public Hearing.

Commissioner Kelly provided the following comments:

- He would like to change the recommendation from owner occupying the "unit" to owner occupying the "property".
- This revision could accomplish the goal of not having investor properties used as short-term rentals.
- The commercial zones could be less regulated.

Commissioner Newton provided the following comment:

- The problem they are trying to solve is the lack of housing stock.

Commissioner Feffer provided the following comment:

- They are also trying to solve the problem of housing affordability overall.

Commissioner Swift provided the following comments:

- The short-term rentals registration process precluded some people from being able to register due to parking concerns.
- The 2017 prohibition of using ADUs and JADUs as short-term rentals was appropriate.
- She is concerned about parking and wanted more community input on this subject including waivers.

Commissioner Petrone provided the following comment:

- He would like to talk about the Hotel User Tax rate.

Chair Jansen provided the following comments:

- There needs to be a balance between the two conflicting interests.
- Without regulation there is a risk of commercial enterprises displacing the local population resulting in an increase in housing costs overall and a reduction in affordable housing.
- On the other side they do not want to be discriminatory.
- More money can be made with a sort-term rental than a permanent rental.
- He supported the change in the regulation to require that the unit is occupied by property owner.

Chair Jansen asked for a straw poll regarding changing the definition of a short-term rental by crossing out the reference to single-family residences which would prohibit ADUs built after January 1, 2020 and not 2017. It was the consensus of the Commission to use the date 2020.

Commissioner Bela provided the following comments:

- Requiring property owner occupancy reduces the risk of the worst possible outcomes.
- He discussed the housing crisis and supported flexibility.

Chair Jansen asked for comments about item #2- whether to allow STR's in any zoning district.

Commissioner Petrone provided the following comment:

- The provision with respect to apartment buildings (one per property) seems arbitrary.

Commissioner Swift provided the following comment:

- The language with respect to apartments needs to be changed from "property".

Chair Jansen provided the following comments:

- The provision for apartment building could be changed from one per property to a percentage.
- It is a matter of equity- if it is allowed in the RS6 Zone then it should be allowed in the RD 5.5-7 Zone.
- A different tool might be needed to control STR's.

Commissioner Newton provided the following comment:

- It would not be fair to put a limit on STR's for apartment buildings.

Commissioner Feffer provided the following comments:

- He was concerned about exacerbating the housing affordability crisis by increasing the areas where STR's are allowed.
- There should be no STR's allowed in Town and thus no expansion of zones.

Commissioner Bela provided the following comments:

- He is in favor of expanding into the other districts.
- It is a matter of fairness and equity.

Commissioners Newton and Kelly provided the following comment:

- They agreed with Commissioner Bela.

Chair Jansen took a straw poll of the Commission regarding whether STR's should be allowed in all the district's cited by the Planning Director. It was the consensus of the Commission to support this (one opposed).

Chair Jansen asked for comments about item #3- parking.

Chair Jansen provided the following comments:

- There should be requirements.
- He supported allowing the Planning Director to grant a waiver.

Commissioner Swift provided the following comments:

- It should be clear that the requirement for one parking space for every four guests needs to be on the property and not the street.
- The waiver process should include neighbor notification.

Commissioner Newton provided the following comments:

- She stated Finding (e), "Lack of Parking", should be pulled out of the list and made a stand-alone requirement.
- The word "neighboring" should be used instead of "adjacent".

Commissioner Bela provided the following comments:

- Many of the concerns expressed tonight by the public would be addressed by a waiver requirement.
- He is not sure there is an issue of parking supply but rather parking management.
- Some of the waiver requirements seem rather subjective.
- Off-street parking requirements add to the cost of development and should be reduced or eliminated for STR's.

Commissioner Petrone provided the following comments:

- Finding (e) is opening up a "can of worms" and should be removed. It is subjective.
- The pros of STR's outweigh the cons.

Commissioner Kelly provided the following comment:

- They are on the right track with a waiver and notification of neighbors.

Chair Jansen provided the following comments:

- He supported the need for one parking space on the property, a waiver process, and notification of the neighbors within a 300 foot radius.
- Finding (e) should be eliminated.

Commissioner Swift provided the following comments:

- This should not be zone dependent.
- There should be one approach for all zones.

Commissioner Kelly provided the following comment:

- Parking requirements could be removed for any commercial zone.

Chair Jansen provided the following comment:

- He supported a cap on the number of days per year and recommended 180 days.

Commissioner Bela provided the following comment:

- This is an interesting approach but they need to study the market more.

Commissioner Feffer provided the following comment:

- He suggested a formula that takes into account the average price per unit of an STR and the average rental for the year.

Planning Director Beiswenger read the changes made to the ordinance suggested by the Commission.

M/s, Bela/Petrone, motion to adopt the Ordinance with the changes cited by Planning Director Beiswenger.

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

NOES: Feffer

The Commission took a 5-minute break.

Discussion Item

4. Study Session: Amendments to 2010 to 2030 General Plan, Land Use, Town Center and Safety Elements

Planning Director Beiswenger presented the staff report and Mr. Andrew Hill, representing Dyatt and Bhatia, gave a PowerPoint presentation. Staff and Mr. Hill answered questions from the Commission regarding what will happen with the zoning on the Wall Property; if the General Plan Land Use Map is the legal map for zoning purposes; if the Land Use Map is up to date; the status of the Ridgeline Map; if the Transportation Element is getting updated; when the Conservation Element will be updated; the purpose of the Planned Development District (PDD) Zone; if the Goals of the Town Center Element would be incorporated into the Land Use Element; the time line for the Town Center Plan process; how the Land Use Element designations were established including the Floor Area Ratio (FAR) ranges.

Chair Jansen opened the Public Hearing.

There were no comments.

Chair Jansen closed the Public Hearing.

Commissioner Newton provided the following comments:

- The original hand drawn maps are very important to residents.
- She wants more time to digest the document.

Chair Jansen provided the following comment:

- He pointed out a few discrepancies in the Land Use Map including the Olema Road property- it is shown as CL but has been rezoned to PDD.

Commissioner Feffer provided the following comment:

- The inability for some people to access cell service in the event of a disaster needs to be addressed. It is discussed in Goal S3.6.

Commissioner Swift provided the following comments:

- She would like more time to absorb this. A month is not sufficient.
- The previous work on the Safety Element needs to be addressed.

Commissioner Bela provided the following comment:

- The relationship between the elements should be cross-referenced to make the document more actionable.

The Commission decided to continue this item to the next meeting or a Special Meeting.

Minutes

5. Minutes from the September 19, 2024 meeting

M/s, Bela/Newton, motion to approve the September 19, 2024 minutes as submitted.

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

ABSTAIN: Feffer

Planning Director's Report

There was no report.

Commissioner Comments and Requests

Commissioner Feffer discussed bringing the Town Center Plan back to the Commission.

Commissioner Swift asked staff to report back on the status of 10 Olema Road and the Charter School signs.

Commissioner Swift asked about the Commission meeting schedule during the holidays. Planning Director Beiswenger stated there are no changes.

Commissioner Newton discussed the General Plan Implementation Committee and how the General Plan is an aspirational guidepost. More resources are needed for actual implementation. Commissioner Bela agreed.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:50 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary