

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
FAIRFAX WOMENS CLUB  
THURSDAY, AUGUST 16, 2018

Call to Order/Roll Call:

Chair Newton called the meeting to order at 7:00 p.m.

Commissioners Present: Norma Fragoso  
Esther Gonzalez-Parber  
Mimi Newton (Chair)  
Michele Rodriguez  
Cindy Swift

Commissioners Absent: Philip Green  
Laura Kehrlein

Staff Present: Ben Berto, Planning Director  
Linda Neal, Principal Planner  
Chip Decker, Planning Intern

#### **APPROVAL OF AGENDA**

M/s, Fragoso/Gonzalez-Parber, motion to approve the agenda as submitted.

AYES: Fragoso, Gonzalez-Parber, Rodriguez, Swift, Chair Newton

ABSENT: Kehrlein, Green

#### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

#### **CONSENT CALENDAR**

There were no Consent Calendar items.

#### **PUBLIC HEARING ITEMS**

- 1. 51 San Gabriel Drive; Application #18-13  
Request for a Use Permit to convert an existing garage attic space, by increasing the ceiling height of a portion of the structure and adding a floor, into a 282 square-foot office with a 1/2 bathroom; Assessor's Parcel No. 001-261-10; Residential Single-family RS 7.5 Zone; Robert Suttman, architect/applicant; Colin Parker, owner; CEQA categorically exempt per Section 15301(E)(2).**

Principal Planner Neal presented a staff report. She noted there were some errors in the staff report.

Commissioner Swift had a question about the windows in the attic space. Principal Planner Neal stated that was a question for the applicant.

Commissioner Gonzalez-Parber asked if there were any privacy issues for the neighbors. Principal Planner Neal stated she was not able to determine this- the structure would look into the side yard.

Chair Newton opened the Public Hearing.

Mr. Rob Suttman, RPS Design, made the following comments:

- The owner works from home and wants a proper office.
- There is a space above the garage with sturdy flooring that they can build on. This will be the small office with an external stairway. An internal stairway would have been prohibitive.
- The window on the side provides a cross breeze. They could use frosted glass and an awning style window.
- They are going to remove the existing small window and put in a larger window towards the back of the space.
- The owner has replaced the sewer lateral so the ½ bathroom is not an issue.

Commissioner Swift asked if the existing small window would be in what would remain the attic space. Mr. Suttman stated “no”.

Commissioner Gonzalez-Parber asked if there was a powder room but no shower. Mr. Suttman stated “yes”. Commissioner Gonzales-Parber asked about the location of the new, clerestory window. Mr. Suttman it would be moved towards the rear of the structure- it was previously just below the peak. Commissioner Gonzalez-Parber asked if they would be satisfied with the clerestory window. Mr. Suttman stated they would rather have a bigger window that would allow for a breeze and more light. Commissioner Gonzalez-Parber stated they were talking about leaving the proposed window as is and frosting it for privacy. Senior Planner Neal stated it would be an awning window (hinges on the top).

Mr. Colin Parker, owner, made the following comments:

- There is an existing window on the west side that looks over the neighbor’s roof.
- The proposal would not overlook the neighbor’s backyard or interfere with his property rights.
- He would be happy to use frosted glass.

Chair Newton asked if they considered making the office a Junior Second Unit. Mr. Parker stated “no, it would be his office”.

Commissioner Gonzalez-Parber asked for clarification about the requirements for a Junior Second Unit.

Chair Newton closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- This could lend itself to a Junior Second Unit down the road.
- She has no concerns.

Commissioner Swift provided the following comment:

- She referred to item #22 of the resolution and stated the exterior lighting, including the landscape lighting, should be dark sky fixtures.

Commissioner Gonzalez-Parber provided the following comment:

- She supports the project.

Commissioner Rodriguez provided the following comments:

- She noted the application requires a Use Permit due to the non-conforming lot size and she would like to see the Commission’s Work Plan address this. This could be a staff level effort.
- She supports the application.

- She referred to Condition #2 and suggested the following addition: “The color shall match the existing building”.
- She supported Commissioner Swift’s suggestion about requiring dark sky fixtures.
- She referred to Condition #23 and stated it should give the property owner flexibility and allow them to get approval from staff for a future Accessory Dwelling Unit.

M/s, Rodriguez/Fragoso, motion to approve Resolution #2018-12 with the following modifications: 1) Condition #2, shall read: “Prior to the...referenced plans *with color to match existing building*”; 2) Condition #22 shall read: “All exterior lighting ... shall be LED *dark sky fixtures*...; 3) Condition #23 shall read: “Prior to issuance ...*or consistent with current ADU Ordinance*...”; 4) Condition #24 shall read: “If windows.....*clerestory, glass frosted, or awning syle*, with a minimum sill height... so as *not to see into adjoining neighbor’s yard*.”

AYES: Fragoso, Gonzalez-Parber, Rodriguez, Swift, Chair Newton

ABSENT: Kehrlein, Green

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

## 2. 64 Cypress Drive; Application #18-14

**Request for a modification of a previously approved Use Permit for the conversion of an accessory structure to a new single-family residence to replace the approved garage with a carport; eastern ½ of Assessor’s Parcel No. 003-201-25; Residential Single-family RS-6 Zone; Matthew Simpson, applicant; Anne Lamott, owner, CEQA categorically exempt per Section 15303(3)**

Principal Planner Neal presented the staff report.

Commissioner Swift had a question about the location of the fencing in relation to the carport. She noted a change to page 5 of the resolution (reference to carport and not garage).

Commissioner Gonzalez-Parber referred to the photographs with a white pickup truck in it and asked if that was part of the property. Principal Planner Neal stated that was the house next door. Commissioner Gonzalez-Parber asked if the carport structure would go where the rod-iron gates are located. Principal Planner Neal stated “no- the opposite way”. Commissioner Gonzalez-Parber asked about the existing material for the residence. Principal Planner Neal stated the existing house was stucco with a Mediterranean style roof.

Chair Newton opened the Public Hearing.

Ms. Anne Lamott, applicant, made the following comments:

- The fence would be located behind the carport.
- A carport would cost a lot less than a garage- thus the change. A garage would be a big, blocky structure on a beautiful, tree filled lot.
- The carport would match the main house.

Chair Newton closed the Public Hearing.

Chair Newton provided the following comments:

- She agreed with the comments made by Commissioner Rodriguez and Gonzales-Parber regarding similarity of design. Fairfax has funky, quirky things and the Commission needs to think about this when coming up with objective design criteria.

Commissioner Gonzalez-Parber provided the following comment:

- She supports the application.

Commissioner Rodriguez provided the following comments:

- She is of the opinion that all the buildings on a lot should be consistent in design, materials and color.
- She supports the application.

Commissioner Fragoso provided the following comment:

- The proposed redesign is more in keeping with the property as seen from the street. It will blend in better than the previous proposal.

M/s, Gonzalez-Parber/Fragoso, motion to adopt Resolution No. 2018-13 with the suggested change to the resolution (reference to a carport as opposed to a garage).

AYES: Fragoso, Gonzalez-Parber, Rodriguez, Swift, Chair Newton

ABSENT: Kehrlein, Green

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

### **3. 16 Mountain View Road; Application #18-12**

**Request for a Use Permit and setback Variances to construct a one-story, 115-square foot artist studio with minimal electrical improvements and no plumbing in the northern rear corner of a site developed with a single-family residence and garage; Assessor's Parcel No. 002-011-33; Residential Single-family RS-6 Zone; Brian Milton, applicant, Clarisse Lula, owner, CEQA categorically exempt per Section 15303(e).**

Principal Planner Neal presented a staff report. She noted a correction to the staff report regarding the combined front and rear setbacks and the combined side yard setbacks. The proposal does not require any variance of minimum or combined side yard setbacks, but it does require a variance of the rear setback for a very small corner section of the structure. It will require a front and rear setback variance because it is going to have a combined front and rear setback of 20.5 feet instead of the required 35 feet.

Commissioner Fragoso stated they were not changing the non-conforming setbacks and she asked why a Use Permit would be required. Planning Director Berto stated this will be a new structure so it is subject to a Use Permit because the property does not meet the minimum size and width requirements based on its slope.

Commissioner Swift stated there were no story poles indicating where the structure would be located. She noted it would be in the combined front/rear setback. It would be helpful to have story poles. Planning Director Berto stated staff could ask applicants to stake corners in the future. Commissioner Fragoso stated that would be helpful.

Commissioner Swift stated the staff report cites examples of other properties with similar structures but they were not in what she would consider the "neighborhood". Principal Planner Neal stated staff considers anything out in the Cascade area as the "Cascade neighborhood". Commissioner Swift asked if the other examples had utilities. Principal Planner Neal stated "yes".

Commissioner Gonzalez-Parber asked if the photographs depicted someone standing on the downhill side (from Manzanita looking up). Principal Planner Neal stated "yes".

Chair Newton stated she did not see the specific setbacks reflected in the Resolution- this should be added.

Commissioner Rodriguez stated Manzanita was on one portion of the lot and Mt. View was accessing another portion of the lot and she asked if these were easements. The garage seems to be accessing from an easement coming off of Mt. View. Principal Planner Neal stated it was a shared driveway easement that accesses two to three houses. Commissioner Rodriguez asked about the definition of a front and side property line. Principal Planner Neal stated Fairfax has properties that do not front on public roads. This front door faces a shared driveway easement.

Commissioner Rodriguez asked if they looked at the area above the garage as an alternative.

Principal Planner Neal indicates that a second story over the garage would require the approval of a height variance because accessory structures are limited to one story in height.

Chair Newton opened the Public Hearing.

Ms. Clarisse Lula, owner, made the following comment:

- They will not gain access to the street from Manzanita. There are no stairs accessing the site from Manzanita and the road cut is very steep there.
- They did not want to use the area above the garage- it would be too costly.
- This location is the most isolated and least impactful to the neighbors.

Chair Newton closed the Public Hearing.

Commissioner Gonzalez-Parber provided the following comment:

- She supports the application.

Chair Newton provided the following comments:

- The resolution should reference Application #18-12 and not #18-10.
- She pointed out that the numbers on the house and have to be internally illuminated per the Fire Department requirements.

M/s, Fragoso/Gonzalez-Parber, motion to adopt Resolution No. 2018-11 with the correction regarding the application number suggested by Chair Newton and the corrections to the setback table.

AYES: Fragoso, Gonzalez-Parber, Swift, Chair Newton

NOES: Rodriguez (because of the encroachment into the setback and visibility of the structure).

ABSENT: Kehrlein, Green

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

The Commission took a 5-minute break at 8:30 p.m.

## **PLANNING DIRECTOR'S REPORT**

### **4. Report from Ben Berto, Director of Planning and Building Services including an update on the Planning Commission Work Program**

Planning Director Berto reported the Town Council provided direction to the Commission and staff at the August 1<sup>st</sup> meeting. The four major work program items include the Marinda Heights subdivision (Wall property), cannabis regulations, maximum house size regulatory overview, and responses to the State's new housing legislation. He briefly discussed the decisions made by the Council with respect to cannabis regulations. This issue will come before the Commission soon. The issue regarding maximum house size will be reviewed by the Council in September or October. He discussed recent State housing legislation and the potential effects on local government. Planning Intern Decker has been working on the objective development standards that will be

reviewed by the Commission and Council. The Council and staff believe this should be the highest priority.

Commissioner Fragoso asked about the status of the historic buildings inventory. Planning Director Berto stated the Planning Department is currently understaffed but will do what they can to facilitate this project.

Commissioner Swift asked staff if they have been in contact with the League of California Cities (LOCC) as a resource for the development of objective standards. Planning Director Berto stated there is a lot of information to be obtained from the LOCC.

Commissioner Swift asked how tree removal permits would be forwarded from the Commission to the Tree Committee. Planning Director Berto stated the committee would be used as a resource similar to the Fire Department and other commenting agencies.

Chair Newton asked for an update on Victory Village, the Caterpillar Academy, the question of the definition of floor space when referring to accessory dwelling units (ADU's), the Parkade Rehabilitation Project, and the outdoor music at Mas Masa. Planning Director Berto reported staff was processing the building plans and the Parcel Map for finalizing the subdivision for Victory Village. The Parcel Map will be reviewed by the Town Council in October or November. They are proposing a 150 foot wide band of open space across the top of the property. He reported it was decided that the definition of floor space in the ADU Ordinance needs to be standalone- there is no good way to integrate that into any Town definition. The State has come up with its own, unique language.

Chair Newton referred to the Work Program items and asked about priorities, timing, and the things that are doable. She noted the priorities seemed to be cannabis regulations, objective design review guidelines, and streamlining some processes. Planning Director Berto agreed with her assessment but noted a lot of this will get trumped when the Marinda Heights (Wall property) application gets going.

Commissioner Swift asked if the Commission would be reviewing the cannabis regulations anytime soon. Planning Director Berto stated the Commission should get an overview soon. Commissioner Fragoso asked if there was a timeframe with respect to cannabis regulations. Planning Director Berto stated the one-year moratorium would expire October 31<sup>st</sup>. It can be extended for one year.

Commissioner Swift asked if staff would be presenting anything about the maximum house size to the Council anytime soon. Planning Director Berto stated "yes, at the next meeting". Chair Newton stated she was concerned about staff taking this issue to the Council without the Commission having more discussion. Planning Director Berto stated the primary consensus item from the Commission was that one 120 square foot shed (no plumbing or electrical) would not be considered a part of the square footage. In addition, the Commission supported the notion that larger homes would use less energy through building technology and energy efficiency. The Commission could review these topics again. Commissioner Fragoso stated she would like to discuss the specifics before it goes to the Council. Chair Newton asked the Commission about their view on tying maximum house size to certain energy efficiency standards that are more stringent than the State. Commissioner Swift stated she does not have enough information to make that decision. She did not think the maximum house size should be changed. Commissioner Fragoso and Gonzalez-Parber stated "yes, they should be tied together". Planning Director Berto stated there seemed to be a desire to discuss this issue and it will be noticed and placed on the next agenda.

Commissioner Swift cited the definition of lot coverage doesn't capture impervious areas that aren't adjacent a building, and stated she would like staff to research the intent of the language. She

thought the intent was to minimize impervious surfaces. Commissioner Fragoso stated they could look at this while reviewing the limitation on housing sizes.

Chair Newton noted many of the objective design review standards were already cited in the General Plan. A lot of the maps in the General Plan could be tied into guidelines and historic preservation standards. Planning Director Berto suggested the creation of an ad hoc committee to work on this. Commissioner Fragoso suggested they include the individual who will be working on the historic structure inventory.

## **MINUTES**

### **5. Minutes from the July 19, 2018 Planning Commission meeting**

M/s, Swift/Rodriguez, motion to approve the July 19, 2018 Planning Commission minutes as corrected.

AYES: Fragoso, Rodriguez, Swift, Chair Newton

ABSENT: Kehrlin, Green

ABSTAIN: Gonzalez-Parber

### **6. Commissioners Comments and Requests**

Commissioner Gonzalez-Parber asked for an update on the Java Hut. Planning Director Berto stated they are in compliance.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:25 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary