

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, MAY 17, 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
Philip Green
Laura Kehrlein
Mimi Newton (Chair)
Michelle Rodriguez
Cindy Swift

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Michelle Levenson, Assistant Planner

APPROVAL OF AGENDA

M/s, Fragoso/Swift, motion to approve the agenda as submitted.
AYES: Fragoso, Gonzalez-Parber, Green, Kehrlein, Rodriguez, Swift, Chair Newton

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. Preliminary Discussion/consideration of Zoning Ordinance Amendments to Reduce Maximum Residential Floor Area**
General discussion on potential change to Zoning Ordinance as it pertains to the maximum allowable floor area of a single family residence. The current maximum allowable floor area for a residential structure is 5,000 square feet. Discussion of a new maximum residential floor area limit of approximately 3,000. No ordinance language is proposed at this time

Planning Director Berto presented a staff report.

Commissioner Fragoso asked if an accessory dwelling unit could be built on a property that was already at the maximum allowable square footage. Planning Director Berto stated "yes, provided they met all the other zoning requirements". It would have to comply with the Floor Area Ratio (FAR).

Commissioner Swift stated there were 237 undeveloped single family properties, 2,137 developed single family properties, and 270 developed duplexes in Town. She asked if staff knew what the 237 undeveloped properties could legally accommodate. Planning Director Berto stated staff has not run the numbers but those undeveloped properties posed challenges. Commissioner Swift discussed the definition of "maximum house size" and whether or not basements, unfinished attics, patios, and decks, would be included. She stated this should be clarified.

Commissioner Swift stated the code was confusing in terms of the restoration of a damaged structure (under and over 50%) and non-conforming uses. She asked how this has been addressed in the past. Principal Planner Neal stated owners typically were allowed to restore the home the way it was before the damage.

Commissioner Swift asked what the allowable maximum residence size was in the Town of San Anselmo. Planning Director Berto stated it was 5,000 square feet for hillside and flatlands.

Commissioner Green asked what triggered this discussion- what was the Council's intent. Planning Director Berto stated there have been some character and resource questions.

Commissioner Green asked how the public would be notified about this issue. He expected more people at tonight's meeting. Planning Director Berto stated staff could post something on Nextdoor which has the ability to reach a lot of people. Staff would broaden the scope of the mailing notification.

Commissioner Kehrlein asked for clarification of staff recommendation #3(a).

Commissioner Gonzalez-Parber asked if the Commission was being asked to decide the maximum size of the house including the accessory dwelling unit or simply the primary dwelling. Planning Director Berto stated it was everything. Commissioner Gonzalez-Parber stated she was putting them into two categories- habitable vs. non-habitable dwelling space. Planning Director Berto stated under the current code any accessory structure counts towards the maximum square footage.

Commissioner Green asked for the definition of a "green property" and whether there are bonuses given. Planning Director Berto stated there was a list of green elements that allows for additional square footage. He stated the Council thought this was no longer necessary given the State regulations.

Chair Newton asked if there were other green building technologies that they should be considering and asked for a copy of the Town's Green Points application. She was very interested in the use of permeable surface materials. She had questions about the relationship between floor area ratio and a reduction in the maximum home size. She asked if variances were tied to the floor area ratio. Planning Director Berto stated they could be and the Commission would want to look at this.

Chair Newton opened the Public Hearing.

Ms. Malorie Geidheim, Willow Avenue, made the following comments:

- She had a question about existing non-conforming units.
- She wants to keep Fairfax "Fairfax".
- She would like the ceiling to be 3,000 square feet. This is not a small house.

Mr. Mark Vendetti, Muriel Place, made the following comments:

- He agreed with the comments made by Ms. Geidheim.
- A cap of 3,000 square feet would maintain the character of Fairfax.

- Nextdoor was a good way to get the word out.

Ms. Lina Streya, Muriel Place, made the following comment:

- She lives in a 900 square foot home and feels that it is huge.

Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- The issue of floor area ratio (FAR) permeates all planning and zoning discussions.
- He would like to see the fewest number of houses impacted as possible.
- Not much can be done about a large, non-conforming house during its sale.
- He supported a 3,500 square foot limit- it might impact the fewest number of existing homes.

Commissioner Swift provided the following comments:

- Staff needs to put out more notices to the public.
- There were approximately 2,100 developed single family properties, one-quarter of which are equal to or greater than 2,000 square feet.
- This issue has the potential for a large impact.
- There are still a lot of questions.
- She would like to continue this item. She is not ready to make a recommendation.

Commissioner Rodriguez provided the following comments:

- She is a big supporter of amending the single-family and duplex ordinance to reduce the maximum building size.
- This can be linked to a combination of economic pressures, resource preservation, and the environment.
- She supports a limit of 3,000 square feet for new construction and existing buildings.
- She would like to see an exception for long-term maintenance (not expansion) for existing buildings.
- She supports maintaining the variance for increasing the building size beyond the 3,000 square foot limit.
- The third issue is addressing the non-conformities. A resident should be able to rebuild a legal non-conforming structure, to its original size, if it is destroyed by a fire, etc.
- There are still a lot of questions.
- She would like to see more information on the General Plan Policy that supports this issue.
- She supports deleting the Green Building Variance because the Building Code is inclusive of many of these topics.

Commissioner Gonzalez-Parber provided the following comments:

- Whatever standards they adopt should apply to new construction, new development, what is already there by right or "grandfathered" in (legal non-conforming).
- The existing 5,000 square foot limit was enacted before accessory dwelling units hit California.
- A 3,000 square foot house is a big house.
- Lot coverage will dictate how much the environment is impacted.
- She is tempted to leave it at 5,000 square feet until they have more information from the State.
- She asked if they could create a sub-category for accessory units.
- She referred to the 10% variance for green building and stated there is an overlap with what the State is doing.
- Dry rot and termite damage should not be counted in the 50% remodel. People trying to fix their homes should not be penalized.
- Noticing should be specific with respect to intent.

Commissioner Kehrlein provided the following comments:

- She supported a reduction in the home size- the range should be 3,000 to 3,500 square feet.
- The issue of accessory structures is always complicated.
- There should be a distinction between habitable and non-habitable.
- There are conflicts with the Zoning and Building Codes. This could be an opportunity to provide some clarity.
- The Green Building Variance is not necessary.
- Homeowners should have the right to rebuild what they had.
- She suggested staff send out a survey along with the noticing.

Commissioner Fragoso provided the following comments:

- Noticing on Nextdoor is a good idea but it should refer people to the Town Website- things can go haywire on Nextdoor.
- They could do without the green point application process but she would like to see all of the green building requirements in one place. She would like to incorporate some of the elements from the County of Marin.
- She referred to the replacement of damaged property and stated it should occur one-for-one.
- She wondered if they should look at a non-conforming vs. a “grandfathered” category for structures previously developed according to code.
- She supports a no-net housing/unit loss.
- She would agree to exceptions for certain types of accessory structures that are not habitable.
- Floor area ratios govern the amount of development on a particular property and are as important as the size of a unit.
- 3,000 to 3,500 square feet is more than sufficient.
- She would like to see a continuance but June might be too soon.
- They could start moving forward and adapt as the State makes changes.
- She would like to see some sketch options.

Chair Newton provided the following comments:

- She would like to discuss this further in June with more public input.
- They could look at the way the code is currently drafted with redline to show the discussion topics.
- She asked staff to make the appropriate clarifications including the language about variances, FAR vs. maximum residential square foot limit, etc.
- She agreed with Commission Fragoso’s suggestion about sketches- it was important to grasp the differences visually.
- She is interested in the distinction between “over 50% rebuilding” vs. “under 50% rebuilding”.
- She would like clarification on “routine maintenance”. They should be encouraging this.
- She referred to Section 17.016.040(c)(1) and stated it should be clarified.
- She does not have strong feelings about the number and suggested 3,250 square feet.
- She referred to page 8, bullet points #5 & #6 (up to or more than 50% damage) and stated there needed to be a standard.
- She referred to page 9, staff recommendations, and asked for staff to return with some pros and cons.

The Commission discussed the parameters, language, and timing of upcoming notices.

The Commission took a 5-minute break at 8:53 p.m.

- 2. 20 Park Lane; Application #18-04**
Request for a Hillside Area Residential Development (HRD) Permit (fifty-percent remodel) and parking variance for the expansion and remodeling of a 1,854-square-foot, two-story, single family residence into a 2,353-square-foot, two-story single-family residence. Assessor's Parcel No. 001-032-13; Residential Single-family RS-6 Zone District; Ray and Anna Arata, applicants/owners; CEQA categorically exempt per Section 15301(e). Staff is recommending a continuation to the June 21, 2018 Planning Commission meeting.

Chair Newton noted staff has recommended continuation of this application.

M/s, Fragoso/Green, motion to continue Application #18-04, 20 Park Lane, to the June 21, 2018 Commission meeting.

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

- 3. 176 Willow Avenue; Application #18-07**
Request for a Use Permit to expand and remodel an existing single-family residence, enclosing a front porch and increasing the residence by 104 square feet from a 2,137 square-foot, 3 bedroom, 2 ½ bathroom residence to a 2,241 square-foot, 3 bedroom, 2 1/2 bathroom residence; Assessor's Parcel No. 001-193-23; Residential Single-family RS-6 Zone; Richard Holland and Gisele Norris, applicants/owners; CEQA categorically exempt per Section 15301(a)

Principal Planner Neal presented a staff report.

Commissioner Green asked if the addition was 104 square feet. Principal Planner Neal stated "yes"- it does not go outside the footprint of the existing house.

Commissioner Fragoso asked if this was an example of the type of project that was being considered for administrative review. Principal Planner Neal stated "yes".

Commissioner Rodriguez referred to Resolution No. 2018-05, condition #12, and asked if they were installing sprinklers in the entire house. Principal Planner Neal stated the house already had sprinklers and they were extending the system into the new living space. Commissioner Green asked if this was because the house was in the Wildland Urban Interface (WUI) Area. Principal Planner Neal stated "yes".

Commissioner Kehrlein referred to the resolution, condition 2(d), and asked if any new foundation was being proposed. Principal Planner Neal asked the applicant who said "no". That condition could be eliminated. Commissioner Kehrlein suggested the following wording: "*If changes are necessary to the foundation, it shall be designed to comply with the Building Code.*" She referred to condition 3(a), and suggested the following change: "*If there is any grading to be done, the licensed contractor..*"

Chair Newton opened the Public Hearing.

There were no questions for the applicant.

There were no comments from the public.

Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- He referred to the resolution, condition #11, and asked if it referred to all the lights. Principal Planner Neal stated it applied to new lighting. She will add the word "new".

M/s, Rodriguez/Swift, motion to approve Resolution No. 2018-05, 176 Willow Avenue, with the following modifications: 1) Condition #2(d) shall read "*If changes are necessary to the foundation...*"; 2) Condition #3(a) shall read "*If there is grading to be done the licensed contractor...*"; and 3) Condition #11 shall read "*All new exterior lighting...*"

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

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

4. 1966 Sir Francis Drake Boulevard; Application #18-08

Modification of a previously approved Use Permit for the entire commercial structure, to expand the Marin Mountain Bicycle Museum from its current location in 2,472 square-foot suite A at the front third of the building, to include 1,500 square-foot suite B, which encompasses the middle third of the building. Project includes the 220 square foot expansion of the upstairs 561 square-foot loft storage area and will result in the museum being 4,191 square-feet in size, and recommended changes in conditions relating to future interior uses. Assessor's Parcel Number 001-221-12; Highway Commercial CH Zone District; Marin Mountain Bicycle Museum, applicants; Mark Squire Trust, owner; CEQA categorically exempt per Section 15301(a)

Principal Planner Neal presented a staff report.

Commissioner Fragoso asked if the hours for special events included clean up. Principal Planner Neal stated there is usually some overlap. Commissioner Fragoso asked about the number of special events. Principal Planner Neal stated the staff report included a list that occurred last year. Commissioner Fragoso stated she was concerned about events occurring every weekend. Principal Planner Neal stated the Commission could review the Conditional Use Permit if there were concerns.

Commissioner Green asked if the special events could be limited to weekends. Principal Planner Neal stated she was reluctant to do that- they have school events, etc. that occur during the week. Staff has not received any complaints from the neighbors.

Chair Newton opened the Public Hearing.

A representative of the applicant made the following comments:

- There were no deliveries or pick ups planned. There would not be any issues with delivery trucks.
- They try to be good neighbors.
- He would like to see some flexibility in the hours so the business can grow.

Mr. Joe Breeze, applicant, made the following comment:

- A lot of people walk or bike to the special events.

A representative of the applicant made the following comments:

- The museum currently opens at 11:00 a.m. but they might want to open earlier.
- This expansion not have an impact on the neighborhood.

Ms. Lina Streya, Muriel Place, made the following comments:

- The business serves the community.
- The bicycle is the noblest invention.
- June 3rd is World Bicycle Day.

Chair Newton closed the Public Hearing.

Commissioner Swift provided the following comments:

- She asked staff to clarify the section in the resolution regarding modifications. Principal Planner Neal stated it had to do with further subdividing the building without Planning Commission review.
- She asked if the commercial kitchen sublease would have different parking requirements. Principal Planner Neal stated she did not think so- the space is not that large. The Commission would review any necessary variances.

Commissioner Rodriguez provided the following comments:

- She is not a big fan of over-controlling businesses.
- She would like to give flexibility to the hours of operation for the museum.
- She referred to Conditions #4 & #6 regarding modifications and stated this should be a staff level approval.

Commissioner Gonzalez-Parber provided the following comments:

- She agreed with the change in business hours: 9:00 a.m. to 7:00 p.m., 7 days a week. This would give them flexibility.
- She asked about the bakery hours. Principal Planner Neal stated the current tenant of the rear space has clarified that she was unable to sublet to the bakery she was hoping to but there would be a wholesale food preparation business of some kind in the space eventually.
- Deliveries should not occur before 8:00 a.m.

M/s, Fragoso/Rodriguez, motion to approve Resolution No. 2018-06, 1966 Sir Francis Drake Boulevard.

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

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

**5. Accessory Dwelling Unit and Junior Accessory Dwelling Unit Regulations
Consideration of proposed minor amendments to Section 17.048.050, 17.048.060 and 17.048.070 of the Fairfax Municipal Code on Accessory Dwelling Units and Junior Accessory Dwelling Units, relating to allowable conversions, unit size, and parking. The ordinance would also make clarifying changes to required deed restrictions. Exempt from CEQA, C.C.R. Section 21080.17**

Planning Director Berto presented a staff report. He discussed State law and noted there was one potential clarification on page 2, Attachment B, Section 17.048.060 (B), "Rental". There is a question about whether the language is sufficiently clear to indicate that both units may not be rented.

Commissioner Green referred to Section 17.048.060 (F) "Maximum Size", (1), and suggested adding the wording "whichever is less".

Commissioner Rodriguez referred to Section 17.048.060, (L) "Parking", (1)(c), and stated she thought there was a State exception if the unit is within a certain distance from public transportation. Planning Director Berto stated they would not be required to provide parking.

Commissioner Rodriguez referred to Section 17.048.060 (F) "Maximum Size", (1), and asked about the use of the word "proposed". Planning Director Berto stated State language lacks the term "proposed" and this clarified that someone could come in with a new residence with a new ADU simultaneously.

Commissioner Rodriguez asked if affordability could be a requirement. Planning Director Berto stated not under the current code. However, ADU's that are the most affordable are the smaller ones. Commissioner Fragoso stated the only other option would be to add an inclusionary housing requirement.

Commissioner Swift agreed that the language with respect to owner-occupied vs. rental needs to be clarified. She referred to Section 17.048.060 (F) "Maximum Size", (1), and stated they have approved ADU's on lots that do not have a house on them. Section 17.048.060 (C) "Development on Lot" speaks to that and is the overarching piece of the ordinance.

Commissioner Green referred to Section 17.048.060, (K) "Sanitary service requirements" and recommended the following change: "If an existing private septic system is to be utilized as a *condition to the ADU permit*, the applicant must provide...". He referred to Section 17.048.060 (C) "Development on Lot" and recommended the following change: "Accessory dwelling units.....with any multiple residential development".

Commissioner Gonzalez-Parber referred to page 2 of the staff report and the reference to AB 494 and utility services and asked for clarification. Planning Director Berto stated staff was pointing out that utilities are not within the purview of the Town.

Commissioner Newton referred to Section 17.048.060, (F) "Maximum size", (1) and (2)," total area of floorspace" and stated she did not know what this means in relation to the "maximum residential square foot limit". Planning Director Berto stated staff would provide clarification but the latter usually includes exterior walls. They are talking about a matter of inches. Chair Newton stated it could also include accessory structures (including chicken coops). Planning Director Berto stated it would not be the intent of the legislature to include chicken coops- they are talking about "people space". Commissioner Green suggested including a reference to the appropriate Government Code Section. Planning Director Berto stated staff would work on this.

Commissioner Green asked if this ordinance provides the Town with some local control. Planning Director Berto stated the thrust is to be consistent with State law.

Chair Newton opened the Public Hearing.

There were no public comments.

Chair Newton closed the Public Hearing.

M/s, Rodriguez/Gonzalez-Parber, motion to adopt resolution No. 2018-07 recommending that the Town Council adopt Ordinance No. 18-XX, amending Chapter 17.048 of the Fairfax Municipal Code pertaining to Accessory Dwelling Units with the following modifications: 1) Section 17.048.060 (B), "Rental", shall read: "The unit...primary residence. *Either the unit or the primary residence may be rented separately, but not both*, and shall only be rented...", 2) Section 17.048.060 (C) "Development on Lot" shall read: "Accessory dwelling units.....with any multiple residential development"; 3)

Section 17.048.060, (F) "Maximum size", (1) shall read: "The total area of floorspace... or 1,200 square feet, *whichever is less.*"; 4) Section 17.048.060, (K) "Sanitary service requirements" shall read: "If an existing private septic system is to be utilized *as a condition to the ADU permit*, the applicant must provide...".

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

PLANNING DIRECTOR'S REPORT

6. Report from Ben Berto, Director of Planning and Building Services

Planning Director Berto reported the Town Council continued the discussion on the Commission's Work Program to the June 6th Council meeting. He attended several Planning Director Conferences regarding housing legislation. The Council will be discussing this legislation at the June 6th meeting. The Java Hut is days away from opening. There has been a change in ownership at 85 Bolinas Road and getting the space occupied consistent with prior approvals is up in the air. Any changes would come back to the Planning Commission. The Council has scheduled a May 30th workshop to hear a presentation on various cannabis topics. Commissioner Rodriguez had questions about the workshop format.

MINUTES

7. Minutes from the April 19, 2018 Planning Commission meeting

M/s, Green/Gonzalez-Parber, motion to approve the April 19, 2018 Planning Commission minutes as corrected.

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

ABSTAIN: Kehrlein

8. Commissioners Comments and Requests

Chair Newton wondered if staff could move forward with some of the streamlining recommendations recommended in the Commission Work Program.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:30 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary