

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, OCTOBER 25, 2018

Call to Order/Roll Call:

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

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

Commissioners Absent: Laura Kehrlein

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Janet Coleson, Town Attorney
Gail Karish, Assistant Town Attorney

APPROVAL OF AGENDA

M/s, Swift/Fragoso, motion to approve the agenda as submitted.

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

ABSENT: Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. Discussion/consideration of an Ordinance to permit certain medical marijuana dispensaries to conduct adult-use cannabis deliveries; Exempt from CEQA pursuant to Section 15061(b)(3), 15305 and 15183 of the CEQA Guidelines as separate and independent bases.**

Planning Director Berto presented the staff report.

Commissioner Swift referred to the staff report, page 1, and asked if the reference to a "cannabis delivery permit" was the State permit for a non-store front adult use retail license. She asked how the Town would determine that a dispensary had obtained a non-store front adult use permit that allows them to operate the delivery service from its existing premises. Town Attorney Coleson stated this was a dual licensing system. The permit referred to in the staff report would be issued by

the Town. It is not a Conditional Use Permit but is more in line with a Business Permit. The guidelines are being drafted now.

Commissioner Swift referred to the staff report, page 2, (c) which states that all cannabis deliveries must conform to State laws and regulations and noted they were pretty strict and recently changed. She stated the permit process should look at delivery times, etc.

Commissioner Swift referred to the staff report, page 2, (e) which states the ordinance would allow adult use cannabis deliveries in the State buffer zones and noted that was confusing.

Chair Newton stated it does not make sense that they would require a license on this temporary basis since they are basically adopting an ordinance that would only last as long as the moratorium lasts. Town Attorney Coleson said nothing in the language makes this the same length as the moratorium. Chair Newton disagreed. Planning Director Berto stated the intent was to provide a one-year license. Chair Newton stated she thought they were trying to create a bridge for the existing medical dispensaries in Town to do adult delivery during the period of the moratorium. There will be further discussions on the "big picture"- delivery, brick and mortar, etc. A license should not be necessary for a temporary situation. Town Attorney Coleson stated it was not designed to be onerous and a license provides for more flexibility if not in an ordinance, as opposed to a regulation, format. The licensing process would be simple and would not come to the Commission.

Commissioner Green asked if the receipt of a State license could be the only condition to having a license in Fairfax. Town Attorney Coleson stated it would be difficult to restructure that tonight. All the regulations would be in resolution format for the Council to consider.

Commissioner Fragoso stated the State license does not have purview over the types of issues they are discussing- hours, types of deliveries, etc.

Chair Newton opened the Public Hearing.

Mr. Larry Bragman, attorney for Ms. Lynette Shaw, made the following comments:

- There are two levels of regulations that they have to deal with- local and State.
- The State requires a local license and the local authorities require a State license.
- They would have to have separate premises for the adult use vs. the medical dispensary.
- Business is off 90%- this would be a good start.

Ms. Deb Nelson, Fairfax, made the following comments:

- She asked why an exception was given to the 600 foot buffer zone.
- She hoped there would be some consideration given to the delivery radius and volume of sales.

Ms. Lynette Shaw, owner of Marin Alliance, made the following comments:

- The medical-only system is failing throughout the State.
- Adult delivery would help them break even.
- The proposal was what they wanted.
- Deliveries would not be limited to Fairfax.

Mr. Lew Tremain, on behalf of Marin Alliance, made the following comments:

- Money from a tax measure could be earmarked for youth education.
- The Marin Alliance is currently grandfathered in but it would be facilitative for the Town to reduce the radius so the business is not in the radius of Cascade Canyon School.

Ms. Cary Pratt, President of West Marin Little League, made the following comments:

- The business is within 25 feet of Central (Contratti) Ballfield.
- She discussed the Little League program- the number of kids who participate, seasons, etc.
- The delivery option presents the following concerns- traffic, young children being dropped off for practices and games nine months out of the year, what the traffic volume will look like, oversight of days and times of deliveries, number of vehicles, insurance and training of delivery drivers.
- There should be a place in Fairfax where young children are not impacted.
- She is concerned that the business is moving towards a recreational marijuana storefront.
- If a different applicant were asking to be located near this youth facility, it would be a non-starter.

Ms. Kelsey Fernandez, Ross Valley parent, made the following comments:

- She is a member of a group that seeks to prevent underage drinking and drug use.
- Legalization and normalization leads to decreased perception of harm amongst youth.
- Teen use of cannabis has not decreased since legalization.

Ms. Holly Beatty, Fairfax, made the following comments:

- She is a business owner in School Street Plaza.
- She is often asked, by a very diverse group of people, the location of the dispensary.
- Delivery service seems like the perfect solution.

Mr. Mark Bell, Dominga Avenue, made the following comments:

- The business has been totally compliant.
- Delivery service should not be an issue.

Ms. Jasmine Garrety, Park Road, made the following comments:

- She would like the Commission to consider eliminating additive flavors- it is a potential youth attraction.
- “Bud tenders” should go through a training program similar to the Responsible Beverage Training Program administered by the State.
- There should be a ban on deliveries to bars and schools.

Mr. Steve Gallagher, Marinda Drive, former Little League President, made the following comments:

- He agreed with the comments made by Ms. Pratt.
- Central Ballfield is used by youth activities other than Little League.
- A model for healthful youth activities should not be next door.
- He did not want the buffer zone relaxed.

Ms. Bridget Clark made the following comments:

- She reiterated the importance of labeling the products that would be delivered.
- THC levels should be considered.
- Education is being done through the schools.

Ms. Valerie Hood made the following comments:

- She agreed with the comments made by Ms. Beatty.
- Central Ballfield is more than 25 feet from the dispensary.

Commissioner Frago asked staff if there have been any complaints about the operation of the business over the last decade. Principle Planner Neal stated the Planning Department has not received any complaints.

Commissioner Rodriguez asked staff if the proposal was to amend the medical marijuana section specifically to address this user. Town Attorney Coleson stated this was a zoning amendment to

allow adult use cannabis deliveries by certain existing medical marijuana dispensaries. The permit (Chapter 5) would be reviewed by the Council along with the accompanying regulation. Commissioner Rodriguez noted Chapter 5 refers to Revenue. Town Attorney Coleson agreed but staff determined this was the proper place for this type of permit.

Chair Newton was concerned that details were only being handled by the Town Council. Chair Newton had questions for the representatives of the Marin Alliance. She asked about hours of operation. Mr. Bragman stated the State sets the maximum parameters but they would be happy to work with the Town. Ms. Shaw stated they are currently open from 9:00 a.m. to 9:00 p.m. Chair Newton asked about limitations on where deliveries could be made. Mr. Tremain stated the State does not allow deliveries to a bar. They are looking at residences. Chair Newton asked about limitations on the type of deliveries (extracts, synthetic cannabis, etc.). Mr. Tremain stated they are not planning to carry those types of product. Chair Newton asked about background checks for delivery personnel. Mr. Bragman stated that was already required under State law. Chair Newton asked about the long-term plans for that location. Mr. Tremain stated they do not have long-term plans to change it much. They would like to add a separate store front for adult use at some point.

Commissioner Rodriguez questioned whether this was a temporary ordinance with an expiration. Town Attorney Coleson replied there was no expiration but it was anticipated that the Planning Commission would review the entirety of cannabis regulations. Changes could be made if desired.

Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- This is the way to go. It is a great idea.
- They will probably be reviewing another set of ordinances or regulations.

Commissioner Swift provided the following comments:

- She wants to look at this holistically, with the overall regulations.
- She sees this as a temporary action that could change when they look at everything holistically.

Commissioner Gonzalez-Parber provided the following comments:

- She wants to see some checks and balances, for example in response to complaints.
- She asked if they would have a chance to revisit this before anything permanent occurs.
- Could there be a three-month review period? Planning Director Berto stated they could add a re-review aspect to the regulations.
- State regulations are stringent, but local provisions are desirable – Fairfax is not L.A.
- Education, prevention, and rehabilitation should be addressed.

Commissioner Rodriguez provided the following comments:

- She would like to continue the item to allow staff to develop adult use cannabis regulations with all the detail so they could review it. A partial review is not enough for approval.
- This is an ordinance that would need a first and second reading and then a 30-day period before it is implemented.

Chair Newton provided the following comments:

- The Commission was asked by the Council to do this for the existing medical dispensaries in Town- they will then look at the issue holistically.
- She is not happy that this recommendation does not include operational issues including hours and other limitations.
- She would prefer that everything was spelled out in an ordinance.

Commissioner Frago provided the following comments:

- She had questions about how the delivery service would operate- how would people learn about it, how would orders be placed, etc.
- She stated she supported the existing business hours (9:00 a.m. to 9:00 p.m.).
- She liked the idea of not having “fruity” or synthetic products delivered.

Commissioner Green provided the following comments:

- He cited State law with respect to deliveries to show how strict it is.
- He would go with the State regulations.

Commissioner Gonzalez-Parber provided the following comment:

- She was happy to see that the existing dispensary does not have a fleet of white vans.

Commissioner Swift provided the following comments:

- She is not prepared to provide input tonight.
- The existing Conditional Use Permit speaks to hours of operations, etc.
- Her concern is making sure that an applicant has the State license before it is allowed to conduct business in Town.
- She reiterated her desire to take a holistic approach.

Commissioner Rodriguez provided the following comments:

- She referred to page 2 of the staff report, policy issues “A” thorough “J”, and stated she would say “yes” on all of those.
- She would also like to see information on shipping manifests, chain of custody records, volumes of sales, the amount that people could carry and deliver, etc.
- She would not like to see synthetics or fruity types of products.

Commissioner Gonzalez-Parber provided the following comment:

- She could support the proposed ordinance and what was already in play.

Commissioner Green provided the following comments:

- He referred to the proposed ordinance, Section 17.110.230 “A” and suggested the following modification: “A medical marijuana dispensary.....permitted to operate a marijuana service *by the Town...*”.
- He referred to Section 5 and suggested the addition of language about posting notices on-line on the Town’s Website.

Commissioner Swift provided the following comments:

- She referred to the proposed ordinance, Section 17.110.230 “A” and stated it was confusing in terms of the date of the “existing premises”. She was not sure what the “April 3, 2018” date represented. Town Attorney stated the April 3rd date represents a six month period prior to the Council’s October 3rd meeting. Chair Newton suggested the following wording: “A medical marijuana...from its *then* existing premises...”.
- She referred to Section 17.110.230 “A” (3), and stated it was confusing- there would not be adult use customers in a delivery business. Town Attorney Coleson it was an attempt to make it clear that they could not have retail sales. A customer could not go into the premises to make a delivery order.

Commissioner Rodriguez provided the following comments:

- She referred to the proposed ordinance, the fifth “Whereas”, and asked if the existing youth center was further than the 600 foot radius. Planning Director Berto stated it was within 600 feet. Town Attorney Coleson stated this would be covered by Section 17.110.230 “B” (the second sentence). No setback or radius is necessary for the adult use cannabis delivery.

Chair Newton provided the following comments:

- She referred to the ordinance and stated she wanted to get away from using the word “marijuana”- it is cannabis.
- She referred to the ordinance, page 2, the first “Whereas” and suggested the following modification: ““Whereas, at a special meeting....and adult use *cannabis* retail uses;”
- She referred to Section 17.110.230 “A” and suggested the following modification: “A medical marijuana...may operate *the non-store front retail business* as a permitted use...”
- She referred to Section 17.110.023 “A” 1. (b) and stated she did not agree with this approach.
- She referred to Section 17.110.023 “A” 2. and suggested the following modification: “All cannabis deliveries....and Safety Act *except as set forth herein regarding the buffer zone*”.
- She referred to Section 17.110.023 “A” 3. and suggested the following modification: “No adult-use....*in the currently leased premises...*”
- She was concerned about redundancies in the ordinance.
- She referred to page 2 of the staff report (top of the page) and suggested eliminating the following requirements: 1) “A” 2 ; 2) “B”; 3) “D”; and 4) “F”. Commissioner Fragoso stated it was nice to have those up front- it was a good summary.
- She referred to Resolution No. 2018-17, the fifth “Whereas” and suggested the following modification: “Whereas, staff has prepared such an ordinance *as commented on and modified by the Planning Commission...*”

M/s, Green/Fragoso, motion to adopt Resolution No. 2018-17, recommending that the Council adopt the ordinance as amended tonight.

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

NOES: Rodriguez

ABSENT: Kehrlein

Commissioner Rodriguez stated staff should have come forward with an amendment to the Zoning Code for the regulations related to the use as a whole vs. the one-off.

The Commission took a 5-minute break at 9:15 p.m.

2. Discussion/consideration of an Ordinance consolidating Title 19 and 20 of the Town Code into a revised Title 19 (“Telecommunications”) which establishes uniform and comprehensive regulations for wireless telecommunications facilities in Town, on both private property and within the public right-of-way; CEQA exempt per Sections 15060(c)(2), 15378, 15061(b)(3), 15305 and 15303.

Assistant Town Attorney Karish presented the staff report, noting the proposed ordinance was modeled after other jurisdictions’.

Commissioner Swift referred to the staff report and asked what type of ADA development standards the Town has regulated in the past. Assistant Town Attorney Karish stated this refers to applying the Zoning and permitting process to installations in the public right-of-way, modifications to buildings, etc.

Commissioner Swift asked for the background on AB 57 and “shot clock” timing.

Commissioner Swift referred to the Public Domain Zoning District and noted the Fairfax Library was a County facility and she asked who would have oversight on the infrastructure around the building. Town Attorney Coleson stated the County has independent authority but has a history of coming to the Town for building permits. She assumed there would be communication and cooperation between the Town and the County.

Commissioner Swift had a question about what Title 19 would cover. Town Attorney Coleson stated there was a section that discussed this.

Commissioner Swift asked if public right-of-ways included utility easements. Planning Director Berto stated that was a term of art- there could be instances where the easement runs over private property. Town Attorney stated that definition relates to the streets.

Commissioner Green asked if towers were allowed in the CR (Commercial Recreational) zones. Planning Director Berto stated they would be excluded in those areas.

Commissioner Fragoso referred to page 3 of the staff report and asked about the consolidation of Titles 19 and 20. Assistant Town Attorney Karish stated Title 20 was the Urgency Ordinance and that was used as the base document.

Commissioner Green referred to Exhibit "A" (Resolution 2018-18), and asked for clarification on the chart on page 8. Planning Director Berto noted the CR district was being lumped in with the residential districts as an area where most of these facilities would not be permitted.

Commissioner Green asked for a clarification on what the Commission can and cannot do under State and Federal law. Assistant Town Attorney Karish answered with a detailed explanation: Police departments originally enforced zoning laws but the state and local jurisdictions took over this enforcement and the first laws related to telephone lines and coverage. Current laws allow jurisdictions to consider aesthetics. Wireless regulations are made at the Federal and State level which state that jurisdictions cannot consider EMF emissions and a jurisdiction has to act on wireless applications in a reasonable time period. Denial of an application must be based on substantial information in the record. A carrier must show that there is a significant gap in service and that they have chosen the least obtrusive way to close a gap. Jurisdictions cannot discriminate against any one type of technology. These new laws contain 2 major orders – a jurisdiction cannot have a moratorium on applications and with Senate Bill 649 the industry focuses on small cell deployments and limiting local control even over a jurisdiction's ability to prohibit the use of their own infrastructure for the installations. She indicated that she filed an appeal of the new regulations on the town's behalf and in conjunction with other Marin cities on October 17th, 2018.

Chair Newton stated in addition to the assessments for the applications there should be a buffer zone for owl nests and other avian threatened species. She is also concerned about having a wireless facility installed in an area where there are historic structures. The Council talked about fire safety and aesthetic issues and she would like to add the issue with respect to property values.

Chair Newton opened the Public Hearing.

Mr. Andy Peri, representing 5G Free Marin, made the following comments:

- He passed out some literature.
- The Commission may be compelled to look at the ordinance similar to a conventional room addition or road closure. The ordinance is being produce in a very different context.
- Many Federal agencies, including the FCC, are being controlled by wealthy corporations just looking to make money.
- Many of the health studies show very troubling health impacts.
- The Town needs to find a way to maintain its autonomy and make protection, security, and benefit for the public good a priority.

Ms. Jess Lerner made the following comments:

- She has several key suggestions to strengthen the ordinance including the way they address where the towers would go.
- The small cell devices can reach over 3,000 feet, 24/7.

- They are talking about choice and local control.
- 5G is a completely new power grid network- unnatural, around-the-clock microwave radiation.
- It generates 24 to 90 billion waves per second.

Ms. Holly Beatty made the following comments:

- She has been a shaman for 12 years and helps people heal through vibrational medicine.
- The radiation waves that come from these cell towers break down cell walls and can create irritability, headaches, etc. It is a danger you cannot see.
- She believes in the ability and right of local government to create safe zones for its citizens.

Ms. Roberta Anthes, Snowden Lane, made the following comments:

- She asked the Commission to look at the exceptions chapter.
- The term “sufficient facts” and was far too vague and she suggested the wording “substantial written evidence supporting the claim”.
- The Federal ADA law recognizes EMS [electromagnetic sensitivity] as a disability and prohibits discrimination.
- She noted the revised ordinance does not include compliance with ADA. It should be put back in.

Mr. Robert Earnst, San Rafael, made the following comments:

- He discussed an article in The Union magazine about how a Firefighter’s Union was able to halt construction of cell towers on their fire stations due to “radiation concerns” and how it was adversely affecting them.
- The World Health Organization has called cell phone radiation a “possible human carcinogen”.
- The Town should be more concerned about the health and safety of its residents than what the industry might think.

Ms. Anna Hare, Greenbrae, made the following comments:

- This is a big concern to Marin.
- She had the following questions: 1) Who was paying for the 5G rollouts?; 2) Who has done the research to prove the infrastructure was safe?; 3) Who has decided that this type of radiation is safe for our bodies?

Mr. Alan Wiggin made the following comments:

- He is sensitive to EMFs and chemicals.
- The 5G rollout would change his life drastically.
- Fairfax can set a precedent for other communities and make a statement to the corporate conglomerates.

Ms. Aurora Brankus, Fairfax, made the following comments:

- She feels adverse effects of EMS radiation every day.
- She asked about the ultimate medical costs to communities vs. profits that would be realized by these companies pushing the 5G network.

Ms. Valerie Hood, Fairfax, made the following comments:

- They were told by the telecommunication companies that they could not fight cell towers- they did and they won.
- The community stands against 5G.
- The County should be the legal umbrella organization under which the cities and town come together to share legal costs in resisting the takeover of public commons.

Ms. Cathleen Boggs, San Anselmo, made the following comments:

- The laws and regulations around telecomm are not stringent or protective.
- The only protection is for industry profits.
- The technology has not been proven safe.

Ms. Kim Hahn, San Rafael, made the following comments:

- We have no idea how big a “bad-ass” the FCC is.
- Danger is coming into the sidewalks, parks, play fields.

Mr. Richard Applebaum, Woodland Road, made the following comments:

- They should direct the attorneys to be as creative and aggressive as possible to come up with a gnarly ordinance.
- The Mill Valley Ordinance is not strong enough.
- Fairfax should push the envelope and adopt a strong ordinance to stand up to the FCC and large corporations supporting the fast roll out of 5G.

Mr. David Glick, Cascade Drive, made the following comments:

- It is important to place the discussion in the context of the historical period in which we are living.
- Democracy is at stake.
- Fairfax needs to be on the side of the health of its citizens.

Ms. Vicki Seavers, representing the EMF Safety Network, made the following comments:

- The organization is trying to deal with these issues.
- She urged the Commission to read all the material that has been distributed.
- The Sebastopol City Council passed a moratorium on this technology pending further action.

Ms. Lynchen Bell, Dominga Avenue, made the following comments:

- Fiber optic cable would be a much better solution.
- It is the most secure, reliable, and energy efficient way to stream Internet.

Ms. Janet Fitzgerald, Cascades, made the following comments:

- She agreed with everything that has been said.
- They need to band together for the sake of everyone’s health.

Ms. Bonnie McMurray, San Anselmo, made the following comments:

- She got vibrating in her ears and super anxious after her Smartmeter was installed.
- Fairfax needs to be Fairfax so San Anselmo can be San Anselmo with Fairfax.

Mr. Frank Egger, Meadow Way, made the following comments:

- Fairfax has three ordinances that address antennas in a public right-of-way.
- As written, the ordinance presented tonight is a capitulation to the telecomm industry.
- It is not true that Title 19 was adopted to address large cellphone towers- the ordinance includes public right-of-ways.
- It is debatable that the installation of these devices is exempt from CEQA- an environmental checklist would answer a lot of questions.
- Keep Titles 13 and 19 and rewrite Title 20 to be a standalone 5G small cell ordinance.

Chair Newton closed the Public Hearing.

Chair Newton asked the Commission for some “Big Picture” comments.

Commissioner Green provided the following comments:

- They are not ignoring the issue, and this ordinance was developed in response.
- Perhaps they should not be basing this on a Mill Valley Ordinance and take another look at what San Anselmo has done.
- They cannot ignore the testimony about health concerns- they need to come up with a better solution.
- He would like to hear from a few medical doctors.

Commissioner Swift provided the following comment:

- She referred to endangered species and historic designations and asked how they would be addressed by the FCC. Assistant Town Attorney Karish stated she was not sure how or when the Endangered Species Act would be applied. The Commissioner can add in consideration of aesthetics with respect to historical preservation.

Commissioner Gonzalez-Parber provided the following comments:

- It is not personal or a reflection of her opinion on a subject if she does not respond to emails. She wants this to happen in a public forum.
- They have to get creative.
- She does not know what the answer is but she does not want the Town to get sued.
- Many people are being affected, including young persons.
- She wants to delay or continue the matter.

Commissioner Green provided the following comments:

- He agreed that the matter should probably be continued.
- They cannot ignore the strong sentiments with one viewpoint from the public.

Chair Newton provided the following comment:

- She is not eager to continue something that would cause them to delay other matters.
- It is hard to craft something in a vacuum when she does not have a template to review. She does not have the San Anselmo Ordinance in front of her.

Commissioner Swift provided the following comments:

- It is late at night and she has numerous questions and comments.
- They will not be able to sign off on something tonight.
- There are some areas that they could point out to staff for them to review and perhaps incorporate into the draft.

Commissioner Green provided the following comments:

- He agreed with the suggestions made by Commissioner Swift.
- He went over the ordinance and found it needs a lot of revisions to address public issues.

Commissioner Fragoso provided the following comments:

- She asked staff about the schedule and “drop-dead” date after which they would not be able to establish any criteria and standards. Assistant Town Attorney Karish stated the FCC order is supposed to go into effect January 14th but it does not prohibit them from doing something after that date. They still have existing Chapters 19 and 20 that have standards. Town Attorney Coleson stated when the Council adopted the Urgency Ordinance (Title 20) they wanted the Commission to continue with the work of creating a cohesive ordinance. There are no applications pending.
- She asked if the service providers were just going through and installing the small cell devices or was it based on a request for service. Assistant Town Attorney Karish stated they were not installing 5G’s locally although there were some test cities (two in California). There are no 5G phones. Small cells are being deployed in a lot of places to provide more capacity due to the demand.

Commissioner Green provided the following comments:

- They do not need two separate telecommunication sections- a separate one addressing 5G could be a “red flag”, and check the numbering sequence.
- He referred to Attachment “B”, the first “Whereas” (13), and suggested the following modification: “The public right-of-way...the Town’s natural beauty and *history*...” He would like to see this change when applicable.
- He referred to the same section, last sentence, and suggested the following modification: “The reasonably regulated...deployment represents an ever-increasing *nuisance potential*..”
- He referred to Attachment “B”, the second “Whereas”, and suggested the following modification: “The Town’s General Plan...small Town-character, *history*, aesthetics...”
- He referred to Exhibit “A”, Section 19.04.010, A. (2), and suggested the following modification: “promote and protect...visual resources, *history*, and the aesthetic...”
- He referred to Exhibit “A”, Section 19.04.050, A. (4), and suggested the following modification: “Photographs.... photo simulations *and videos*.”
- He stated all lighting should comply with “dark sky” ideas.
- He referred to Exhibit “A”, Section 19.04.090, C. (2), and suggested the following modification: “The maximum... *and it must not threaten existing lighting*”.
- When referring to FCC standards, he would like to replace the word “such” with “all applicable”.
- He would like to add a broad clause about not shutting down telecommunications during an emergency to any telecommunications ordinance.

Commissioner Frago provided the following comments:

- She noted there was a restriction to installation in every zone except the public right-of-way with the closest adjacent district being the commercial district. She asked if they were required to do this by land use zone. There are residential properties that sit in a commercial or PDD zone. She asked if they could carve out a residential corner or border within a commercial zone. Assistant Town Attorney Karish stated the FCC does not have a rule that says this has to be done by zone or property.
- She asked if there could be a 600 foot barrier to residential property. Assistant Town Attorney Karish stated “yes”.

Commissioner Swift provided the following comments:

- She referred to Attachment “B”, Section 19.04.040 A, and stated the table did not include the UR Zone.
- Her broad brush strokes would be: 1) Endangered species; 2) Historic buildings; 3) Reviewing the exceptions piece of the code.
- She will send her comments to staff.

Commissioner Rodriguez provided the following comments:

- She was trying to figure out how the Smartmeter prohibition techniques might apply here.
- She referred to the comments made from Commission Frago and stated they might want to choose a location where the devices are allowed but prohibit the installations within 3,000 feet of residential zones.
- She wants to add the EMF compliance and the ADA sensitivity issues.
- She wants the ordinance to be a lot more restrictive.
- She would like to see more analysis regarding alternatives and coverage area.
- The design standards did not address ground mounted, building mounted, façade mounted, or free-standing. The existing standards are very weak.

Chair Newton provided the following comments:

- She echoed Commissioner Swift's thoughts regarding protecting endangered species habitats, impacts to historic or culturally significant properties, and protections for people suffering from EMF sensitivity.
- She would include additional language in the findings and in the requirements.
- The location standards should include additional buffer zones around historic parts of Town.
- She likes the 3,000 foot buffer zones.

M/s, Green/Rodriguez, motion to continue this item to November 29th.

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

ABSENT: Kehrlein

3. Discussion/consideration of an Ordinance amending the text of the Fairfax Zoning Ordinance, Town Code Title 17, Chapter 17.112, PDD Planned Development District Zone, pertaining to development standards and submittal procedures; CEQA exempt per Sections 15305 and 15183.

Chair Newton suggested this item be continued.

M/s, Fragoso/Swift, motion to continue this item to November 15th.

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

ABSENT: Kehrlein

DISCUSSION ITEMS

There were no discussion items.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:05 a.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary