

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, NOVEMBER 16, 2017

Call to Order/Roll Call:

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

Commissioners Present: Bruce Ackerman
Norma Fragoso (Chair)
Esther Gonzalez-Parber
Philip Green
Laura Kehrlein
Mimi Newton
Cindy Swift

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Michelle Levinson, Planning Technician

APPROVAL OF AGENDA

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

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEM

- 1. 200 Toyon Road; Application #17-40
Request for a Hill Area Residential Development Permit, Design Review Permit, Excavation Permit, Retaining Wall Height Variances, and Exception to the 20-foot-wide Public Roadway requirement to construct a 2-story, 4,463 square-foot, 4 bedroom, 3 ½ bathroom residence, attached 485 square-foot, 1 bedroom accessory dwelling unit, 504 square-foot, 2 car carport and a 459-foot-long, 16-foot-wide private driveway within the Toyon Road public right-of-way, on a 10.0 acre property; Assessor's Parcel Numbers 003-161-01, 002-171-01 through 08; Residential Single-family RS-6 Zone; Jerry Frate, Architect, Ben Ross, owner; no CEQA determination (Public Resources Code Section 21080(b)(5).**

Principal Planner Neal presented a staff report.

Commissioner Newton noted a typographical error in the staff report and had questions about the map depicting the locations of the Napa False Indigo and the Spotted Owls.

Commissioner Gonzalez-Parber had a question about the Open Space Committee's letter to the Town Council. Mr. Jack Judkins, member of the Fairfax Open Space Committee, stated there was a time when the property owner was considering selling the property and the Town agreed that it was suitable for open space.

Commissioner Swift noted some corrections to the staff report. She stated the staff report refers to the removal of 102 trees but the arborist report points out an additional 42 trees to be removed. Principal Planner Neal agreed and stated 144 trees were being removed. Commissioner Swift asked for clarification about the storage/crawlspace and the requirement for water tanks.

Commissioner Green asked for clarification about the alternative sites.

Chair Fragoso asked what triggered environmental review on large properties.

Chair Fragoso opened the Public Hearing.

Mr. Dan Hughes, civil engineer representing the applicant, made the following comments:

- The project has a long history dating back to 2002. They have been working with staff over the past year.
- They were surprised at the extent of staff's concerns.
- They are asking to change the intent of tonight's discussion- they would like it to be a "study session".
- They want to hear the Commission and public concerns.

Planning Director Berto stated there has been ample opportunity over the years to look at alternatives. Alternative sites would require staff review, soils reports, engineering analysis, etc. Principal Planner Neal stated the applicant was given a chance years ago to submit a redesign and chose not to.

Chair Fragoso stated the Commission should review the application that was before them.

Commissioner Gonzalez-Parber asked if there was time, under the Permit Streamlining Act, for the applicant to hear the Commission and public comments. Planning Director Berto stated the Commission should not make comments on a significantly different alternative. He recommended hearing comments from the public on the current proposal.

Mr. Hughes made the following comments:

- He does not want to stop the public from making comments.
- They were aware of the past recommendations.
- He is not presenting a new project.
- They want to hear comments about the existing project and things they are looking at doing.
- They would support a continuance so they could make revisions to the project.

Commissioner Swift asked why they were proposing two water tanks as opposed to bringing in a water district line. Mr. Hughes stated there was inadequate public fire service (pressure) at that location. Principal Planner Neal stated it was for fire protection for just this house. Commissioner Gonzalez-Parber asked about the height of the tanks. Mr. Hughes stated he was not sure.

Commissioner Green asked about the location of the house- hung off the side of a hill and quite visible from the town. The proposed location maximizes the negative impacts. The other negative aspect is the 16-foot wide driveway. He did not want to set a precedent.

Mr. Hughes made the following comments:

- The proposed site of the home is due to the slope- it is less than other locations. The slopes are steeper along the roadway.
- A wider road would require more cut and fill and higher retaining walls.

- The Ross Valley Fire Department has signed off on the 16' wide driveway.

Mr. Jack Judkins, Fairfax Open Space Committee, made the following comments:

- He referred to the April 27, 2016 letter from the committee in which they addressed various concerns.
- They could not design another project that had greater impact on natural resources, view sheds, trees, etc. than the one proposed now.
- The project is out of scale and has maximum negative impacts on the natural resources of the site.
- The project should be denied.

Mr. Bruce McDermott, Ridge Road, made the following comments:

- He distributed some photographs to the Commission.
- His view is towards the subject property.
- The development would be visibly massive and out of scale with other homes in the area.
- The project is inconsistent with the Hillside Area Residential Development Standards.
- The requested variances should not be approved.
- The development would create erosion problems.
- He discussed his neighbor's concerns including the removal of owl habitats, potential for landslides, negative effects to the environment.
- The project should be denied.

Mr. Lynn McDermott, Ridge Road, made the following comment:

- She read a letter from her neighbor expressing concerns about the project.

Mr. Brian McCarthy, Toyon Road, made the following comments:

- He is concerned that the amount of excavation and the number of trees that would be removed would cause serious environmental damage to the area.
- His concerns included: continued public access on and to the Toyon Drive extension; making certain Toyon Drive will be repaved; parking for construction vehicles should be on the site itself; excavation and tree removal should be subject to environmental study.

Mr. Carl Diel, Toyon Road, made the following comments:

- He agreed with the comments made by his neighbors.
- The staff report was very thorough.
- That portion of Toyon is a privately maintained road and was not designed nor constructed to bear the kind of traffic and the weight of construction vehicles that will occur during construction.
- The applicant should post a bond for the road if the project is approved.
- This proposal is massive, out of scale, and out of character.
- He urged the Commission to reject the proposal.

Ms. Pamela Meigs, Cypress Drive, made the following comments:

- The staff report was clear and the findings were strong.
- The proposal is massive and would result in "environmental slaughter".
- A small house right near the end of the already improved road would make sense.
- The roadway extension would cause massive excavation and could open the area up for subdivision.
- The house is too large and out of character.

Ms. Suzanne Warner, Toyon Road, made the following comments:

- Toyon Road is extremely narrow, in some places 10'3" wide, and maintained by the property owners.
- The construction vehicles would destroy the road.
- She has no problem with the applicant building a reasonable house.
- Parking is limited in this area.
- The "paper street" public access to the adjacent Marin County Open Space should be maintained.
- The project as proposed should be denied.

Mr. Richard Barrons, Toyon Road, made the following comments:

- The 2002 roadway width variance was a bad idea and has expired.
- Buying a property and then trying to build something that makes a mockery of the Town's regulations is troubling.
- Toyon residents spent tens of thousands of dollars repaving the road 3½ years ago and it already has cracks.
- All roads leading to the project would be affected including Bolinas Road and Cascade Drive.
- Security needs to be posted to ensure payment for repair of roadway damage.

Ms. Ann Adams, Toyon Road, made the following comments:

- She agreed with the neighbors comments.
- She was concerned about the road getting repaired if it is damaged.
- Traffic should remain uninterrupted.
- Access to the open space trails should be maintained.

Mr. Steven Keese, Cypress Drive, made the following comment:

- There have been neighborhood discussions about fire safety and egress in the Cascade Canyon.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comment:

- He asked if the Town could require a bond from the owner to repair damages done to a privately maintained road. Planning Director Berto stated staff would have to investigate the legal procedures for this requirement.

Commissioner Gonzalez-Parber provided the following comments:

- She understood the design and desire for a sweeping floor plan and great views, but it is in the wrong location.
- This is a very private location.
- The design requires modifying and altering of the natural topography- this is very telling.
- The project fundamentally goes against the General Plan.
- She is very concerned about the retaining walls.
- She is concerned about the massing and how it would be viewed from a distance.
- She could not support the project.
- The project would require a massive redesign.

Commissioner Swift noted the slope was steeper closer to Toyon, and asked staff if there were examples of houses built on steeper slopes throughout the Town. Principal Planner Neal stated "yes".

Commissioner Green provided the following comments:

- He referred to page 11 of the staff report and stated it listed all the General Plan compliance issues that the project does not adhere to.
- The plan seems to do as much as possible to be out of compliance the General Plan policies.
- He could not support the project- there were too many negative aspects to it.

Commissioner Ackerman provided the following comment:

- He agreed with the comments made by the other Commissioners.
- The staff report addresses all the concerns.
- The house as proposed is excessive in its size, including the decks, and placed in a very visible location where it has to be serviced by a very long driveway.
- The project would require a tremendous amount of cut and fill over some very difficult terrain.
- The retaining walls would be huge.
- The project is located on a road that is already difficult to maintain.
- Any development on this property would need to be a smaller proposal, closer to the developed part of Toyon Road, and much less visible.
- He could not support the project.

Commissioner Kehrlein provided the following comments:

- She agreed with the comments made by the other Commissioners.
- She appreciated the thorough tree report. She has concerns about the number of trees that would need to be removed.
- She would like to see the proposal moved closer to the beginning of Toyon Road.
- She is concerned about the height of the retaining walls and the access to open space.
- The design is fighting the hillside- there are opportunities to nestle it into the hillside.

Commissioner Newton provided the following comments:

- She is not in favor of the proposal.
- She agreed with the comments made in the letter from the Open Space Committee.
- Access to the public trail was important- she is opposed to turning the trail into a driveway.
- The proposal was not in compliance with many of the goals and policies of the General Plan.
- She is concerned about the wildlife and vegetation.
- The scale issues were serious especially in terms of the views.
- The proposal maximizes the profit of building a house with spectacular views while minimizing any attempt to integrate the proposal with the neighborhood and community.
- There were alternatives.
- She is concerned about the height of the retaining walls.
- The proposal should be closer to the road, smaller in size, with less excavation.

Commissioner Swift provided the following comments:

To approve this project, we have to make the findings for Hill Area Residential Permit, Design Review, Encroachment and Excavation Permits, Retaining Wall Height Variances, and an Exception to the 20-foot access road width requirement. She could not make the findings for any of the requested discretionary permits for the following reasons:

- The Hill Area Residential Development has to be consistent with the General Plan. Application is not consistent with several Land Use Goals and Policies;
- Preserve natural features; the site can be developed without geologic, hydraulic, and seismic hazards, vehicular access and parking are adequate; the development harmonizes with surrounding development; meets Design Review criteria and does not result in the deterioration

of significant view corridors. Commissioner Swift felt that the project did not support six of the Design Review criteria;

- Commissioner Swift cannot support the encroachment and excavation permits. The Town can give encroachment permits for private improvements within the public road right-of-way *that are not being used by the general public* but this portion of Toyon Road is used by pedestrians accessing public open space;
- Exception to the general road development standards: The applicant has proposed a 16 foot wide private driveway to be located mostly within the public easement, which the Town Attorney has concerns with;
- The Excavation Permit: findings require that the amount of excavation or fill proposed is not more than is required to allow the property owner substantial use of his or her property, and the visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
- Commissioner Swift stated that she couldn't make any of the required findings: Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners. This goes back to are there other areas on that property to site the home?

Chair Fragoso provided the following comments:

- The General Plan is a well-written document that preserves the character of Fairfax.
- The project is an affront to the General Plan.
- The wildlife and vegetation destruction has not been fully assessed.
- Most offensive is the "freeway off-ramp" proposed to access the house.
- She would vote to deny the project.

Commissioner Green provided the following comments:

- He referred to the resolution and stated the findings for denial should be beefed up.
- He referred to Section 1, page 3, #3, Town Code Section 17.072.010(B)(6) and stated the following language should be added: "The project does not meet this requirement because it is out of size and scale with all other Fairfax properties and would be a grant of special privilege".
- He referred to Section 2, and stated the following should be added to #1: "Another location along Toyon Road would prevent excessive fill": #2: "...however the way the project is designed to be built creates maximum negative impacts on others and the Town": and #3: ".. however the project maximizes the removal of natural lands, trees, and will destroy the landscaping that exists".

Commissioner Newton provided the following comments:

- She noted a typographical error in the title of the resolution.
- She referred to page 2, #7, and stated the Policy was LU 5.1.2.
- She referred to the top of the last page and stated the Town Code Section was 17.072.110(E).
- She referred to Section 2, the first paragraph, and would like to add: "...the following findings required *under Town Code Section 17.20.080* to allow...."

Commissioner Kehrlein provided the following comment:

- She encouraged the applicant to listen to the comments and come back with a more appropriate proposal.

M/s, Ackerman/Newton, motion to adopt Resolution No.17-38 to deny Application #17-40, 200 Toyon Road, with the amendments made by Commissioner Green and Newton.

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

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

The Commission took a 15-minute break at 8:45 p.m.

2. 17 Bolinas Road.; Applicant #17-41

Request for a Use Permit to open a 1,416 square-foot combination retail sales/service sake tasting room in an existing commercial space; Assessor's Parcel No. 002-121-22; Central Commercial CC Zone; Scott Porter, applicant; Fairfax Bolinas Center, owner; CEQA categorically exempt per Section 15301(a)

Principal Planner Neal presented a staff report.

Commissioners Green and Swift pointed out a typographical error.

Commissioner Swift asked if there was an internal door between the restaurant and the tasting room. Principal Planner Neal stated "no"- not directly from one service area to another. Commissioner Swift asked if the outside seating area would serve sake. Principal Planner Neal stated she thought so.

Commissioner Gonzalez-Parber asked how many restaurants in Fairfax have outdoor alcohol service. Principal Planner Neal stated the three establishments on Bolinas Road that have outdoor seating all serve alcohol outside along with several others.

Chair Fragoso asked how many seats were outside at the Japanese Restaurant. Principal Planner Neal stated there were three tables that could fit four people each.

Commissioner Green referred to the Floor Plan, T1, and asked if the door would change from a double door to a single door. Principal Planner Neal stated "yes". Commissioner Green asked if the two round tables with four seats would be located on the red carpet area depicted in the photograph. Principal Planner Neal stated "yes".

Chair Fragoso asked about the width of the single door. Principal Planner Neal stated it would be three feet wide. Chair Fragoso stated it might be shy of ADA requirements. Planning Director Berto stated 36" is the requirement.

Chair Fragoso opened the Public Hearing.

Mr. Scott Porter, applicant, made the following comments:

- The two, round tables would be smaller than normal- it is a smaller space.
- He plans to match the railing that fronts 19 Bolinas. This is not included in this application. Principal Planner Neal stated this will probably be a requirement of the Health Department and Alcoholic Beverage Control Board but it would not necessarily come to the Commission.
- He plans to serve sake outside.
- He discussed the hours of operation and the hours for classes.
- The Japanese restaurant is open 5:00 p.m. to 10:00 p.m. daily.
- He discussed the product that would be served- most of them would be from Japan. They would also be serving tea, juice, and sodas.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- He was concerned about the narrowness of the building and the lack of separation from the sidewalk.
- The idea of a railing should be a condition.
- He referred to the resolution, page 2, Condition #2 and suggested the following amendment: “If repeated noise *or other* complaints are received.....”.
- He has no problems with the project.

Commissioner Swift provided the following comment:

- She could support the application.

Commissioner Ackerman provided the following comment:

- He could support the application.

Commissioner Gonzalez-Parber provided the following comment:

- The proposal was a great idea and a nice “marriage” between the two spaces.

Commissioner Kehrlein provided the following comments:

- She had no issues. This is a great expansion to the business.

Chair Fragoso provided the following comments:

- She has concerns about the hours of 11:00 a.m. to 4:00 p.m. for drinking.
- She asked if the planters and signs would need to come before the Commission. Principal Planner Neal stated “yes” if they make any significant improvements.

M/s, Green/Ackerman, motion to approve Resolution No. 17-39 with the amendments suggested by Commissioners Green and Swift.

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

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

3. 7 Olema Road; Application #17-42

Request for a Design Review Permit and an Excavation/Fill Permit to construct a 2,838 square-foot, 1 story, 3 bedroom, 2 ½ bathroom residence with an attached 592 square-foot, 2-car garage and 675 square-foot, 1 bedroom Accessory Dwelling Unit (ADU) on a 23,666 square-foot property; Assessor’s Parcel No. 001-131-08; Residential RD 5.5-7 (duplex) Zone; Advanced Building Solutions, applicant; Ray Bakowski, and Margaret Ellis, owners; CEQA categorically exempt per section 15303(a) and (d).

Principal Planner Neal presented a staff report.

Chair Fragoso had a question about re-compacting the fill, the number of driveways, and the culvert that runs along Olema Road.

Commissioner Green asked if this was the site of the community garden. Principal Planner Neal stated “no, it is behind the library”. Commissioner Green asked if the story poles were accurate. Principal Planner Neal stated she thought so- this will be a one-story, 20 foot tall house.

Commissioner Kehrlein asked for clarification about which trees would be removed. Principal Planner Neal stated ten trees would be removed.

Commissioner Swift asked about the parking requirement for the accessory dwelling unit (ADU). Principal Planner Neal stated new State law says that no parking is required if it is within ½ mile of a bus stop.

Chair Fragoso opened the Public Hearing.

Mr. Jared Polsky, architect, made the following comments:

- The wood windows would be aluminum clad, in a dark bronze color.
- His firm was asked to design a one-story house in a modern, farm-house style with painted board and batten siding.
- The roof forms would be varied and steeply pitched, with 10/12 sloped gables and a few shed roofs. The roofing materials would be dark composition shingles.
- They created an entry porch in the front and a large, covered private terrace in the back which all the main rooms would flow into.
- The main rooms and terrace face south taking advantage of the sunlight.
- The house is about 2,800 square feet and the rental unit would be 675 square feet.
- This is a relatively flat site that falls off to the west.
- He distributed some three dimensional project renderings.
- He thanked Principal Planner Neal for the very clear guidance.

Commissioner Kehrlein referred to the area near the patio and asked why they were removing one tree and then planting two trees. She would like to save the Oak tree.

Mr. Pete Pederson, landscape architect, made the following comments:

- This is a south facing exposure with a window and no overhang.
- They would like to get some shade on that part of the building.
- Planting trees next to a house will “nestle it into the site”.
- They are saving the big Oak tree.
- The landscape plan includes some Grecian (not Bay) Laurels.

Commissioner Swift asked if there would be parking for the ADU. Mr. Polsky stated “yes, open parking on the right next to the unit”.

Commissioner Kehrlein stated the intersection was heavily used and she was concerned about cars backing out of driveways. Mr. Polsky stated vehicles did not need to back out of the driveway- there was enough room to turn around. Chair Fragoso asked Mr. Polsky if they have considered installing mirrors. Mr. Polsky stated that was a good idea.

Commissioner Green referred to page 4 of the staff report and asked Mr. Pederson if he would agree to the suggested condition that the landscaping plan be revised to incorporate a higher percentage of California native species. Mr. Pederson stated “yes”.

Chair Fragoso asked if they were proposing any water capturing systems or a greywater system. Mr. Pederson stated they were not using a water capturing system but are using typical erosion control measures to slow the water down.

Commissioner Gonzales-Parber referred to the big window above the garage doors and asked if that natural light would be for the garage or for storage space above. Mr. Polsky stated there was no storage space- the window was for letting light into the garage and improving the façade.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- This project would upgrade that part of the neighborhood.
- He is concerned about the traffic in that area. He asked them to install a mirror
- He likes the design.
- He could approve the project.

Commissioner Ackerman provided the following comments:

- The project is large but he likes it. It will be shielded by the vegetation.
- He stated they need to do a good job of insulating the house to help mitigate the noise from Sir Francis Drake Boulevard.

Commissioner Gonzales-Parber provided the following comments:

- This is a great project. She really likes the layout.
- This is a big site so they can support the height.
- The transition from the indoor to outdoor space was thoughtful.
- She supports the project.

Commissioner Kehrlein provided the following comments:

- She liked the design. It would be a great asset to the neighborhood.
- She has concerns about the driveway.

M/s, Green/Gonzalez-Parber motion to approve Resolution No. 17-40 with staff's rewording of Conditions (H) and (I).

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

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

PLANNING DIRECTOR'S REPORT

Planning Director Berto reported a question had been asked about Planning Commission recordings and why there was a video tape and not a separate audio recording. The Town Clerk felt the video tape has both audio and video and it was unnecessary to have a separate audio tape only. He stated staff would like to move the December Commission meeting from the 21st to the 14th. He briefly discussed the potential impacts regarding SB 35 which would allow, with exclusions and exceptions, ministerial review-only of multi-family residential in any zoning district that allows multifamily residential development. Multi-family residential development is allowed in the commercial districts by a Use Permit in Fairfax- the discretionary review would be eliminated. It would be good to have a discussion regarding SB 35 with the Commission. He reported the Planning Commission workshop was tentatively scheduled for the week of January 21st through the 26th- he asked the Commission to email him with preferred dates. He discussed the possibility of forming a subcommittee to work on agenda items for this workshop. The subcommittee could also work on the Work Program for the next year and the issue of historic preservation (inventory, regulations, etc.).

Commissioner Green stated the issue of public perception was important and the Commission might want to include a discussion about holding public workshops. Planning Director Berto agreed- staff will be working on a Webpage that would provide educational information including graphics about planning issues on social media. Commissioner Ackerman noted there was a lot of misinformation being disseminated. He stated the FAQ created by the Town about Victory Village was excellent. The Town of Fairfax Website should be the authoritative source of information- people should not have to depend on social media.

Commissioner Gonzalez-Parber asked about the status of the Victory Village project, and Planning Director Berto indicated that the project was not awarded finding in the first go-around. Commissioner Gonzalez-Parber asked if there was an expiration date on the permits. Planning Director Berto stated the permits were good for at least 3 years.

Regarding scheduling of the workshop, there was a consensus that Monday-Friday (1/22-1/26 would not work for all Commissioners. Further discussion indicated that that either Saturday or Sunday on Jan 20, 21, 27, or 28 was available to Commissioners.

Several Commissioners had questions or comments following the Director's report. Commissioner Swift requested an update on the new State laws, and asked when new zoning maps would be available. Commissioner Green stated that there were issues with public perceptions and awareness, and suggested public workshops to address. For example, simplifying the discussion about downtown planning. Commissioner Ackerman also noted the need for communication, for example, use the Victory Village approach with respect to the Wall property. The Town website should be used as the source for information on this. Commissioner Gonzalez-Parber asked about the status of the Victory Village Project. Planning Director Berto stated they did not secure funding in the first round, but were hopeful of future funding. Commissioner Gonzalez-Parber asked if there was an expiration date on the permits. Planning Director Berto stated they were good for at least three years.

Commissioner Ackerman asked if the application for 74 Cypress Drive was returning to the Commission. Principal Planner Neal stated "yes".

MINUTES

4. Minutes from the April 20, 2017 and October 19, 2017 Planning Commission meeting

M/s, Newton/Green, motion to approve the April 20, 2017 Planning Commission minutes as corrected and the October 19, 2017 minutes as corrected.

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

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Newton congratulated Commissioner Ackerman on his election to the Town Council and commended Commissioner Swift for her campaign.

Commissioner Ackerman stated serving on the Commission and working with staff has been very rewarding.

Commissioner Swift announced the Cascade Fire Wise meeting would be held this Saturday at the Women's Club from 10:00 a.m. to 12:15 p.m. Everyone is invited.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:35 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary