

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, MAY 18, 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
 Mimi Newton (arrived at 7:15)
 Cindy Swift

Commissioners Absent: Laura Kehrlein

Staff Present: Michele Levenson, Zoning Technician
 Craig Whitman, Planning Consultant

APPROVAL OF AGENDA

M/s, Ackerman/Swift, motion to approve the agenda with the continuation of items #2 and #5.

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

ABSENT: Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEMS

- 1. Continued Consideration of a Draft Accessory Dwelling Unit Ordinance:**
Discussion/consideration of a draft Accessory Dwelling Unit Ordinance being proposed to bring the Fairfax Accessory Dwelling Unit Ordinance into compliance with new State Regulations: CEQA categorically exempt per Section 15300.1, and Statutory Exemptions, Public Resources Code Section 21080.15(b)(15) and 21080.17.

Planning Consultant Whitman presented the staff report.

Chair Fragoso asked if State law addresses illegal, non-conforming units. Planning Consultant Whitman stated there is language in the legislation that addresses illegal units. It encourages compliance with local ordinances and bringing those units into conformance. An amnesty program is not included in the proposed ordinance. Commissioner Swift noted they do not have a copy of the old amnesty program. Commissioner Green stated it is in the Town Code, Section 17.048.180, "Residential Second Unit Amnesty Program".

Commissioner Swift asked about utility hook-ups, requirements for sprinkler systems, and parking requirements related to proximity to public transit.

Commissioner Green asked for clarification about the setback issue with respect to garage conversions, and occupancy limitations.

Commissioner Ackerman asked if the ministerial process could include a request for a Variance from the Planning Commission. Planning Consultant Whitman stated "yes". Commissioner Ackerman asked about Section 17.048.050(e)(1) and "Junior Units", Section 17.048.050(e)(2)(b) and utility connections.

Commissioner Gonzalez-Parber asked about long-term rentals of ADU's, owner occupancy requirements, the Town's discretion on the location of utilities, and maximum size of ADU's with respect to lot coverage ratios.

Chair Fragoso asked about garage conversions and parking requirements, whether utility companies could charge a hook-up fee, and whether a single-family parcel could have one ADU and one junior unit.

Commissioner Newton noted an error in the references to dates on the last page of Resolution No. 17-11. She recommended that staff submit a redline copy of the ordinance to the Council.

Chair Fragoso opened the Public Hearing.

There were no public comments.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comment:

- He suggested a change in the language to Section 17.048.060, "Standards for Accessory Dwelling Units" (B) Rental, and (I) Setback.

Commissioner Swift provided the following comments:

- She referred to the provision regarding parking requirements and the proximity to public transit and stated she would like to see this defined.
- She did not want to see these units used as short-term rentals (not less than 30 days). Section 17.048.060 (B) Rental should reflect this.
- This sub-set of housing stock should not be allowed to be used as short-term rentals.

Commissioner Ackerman provided the following comments:

- He agreed with Commissioner Swift's suggestion about short-term rentals.
- There is a housing shortage in Town.

Chair Fragoso provided the following comments:

- The intent is to provide more affordable housing.
- These units should be rented long term as regular affordable housing.
- She referred to the issue regarding public transit and supported the State ordinance (to not require the parking space).

Commissioner Green provided the following comments:

- The purpose of the State law is to address the housing crisis- short-term rentals will not fix this.
- He does not want to regulate Airbnb's- he wants to tax them.
- He wondered if they should simply stated "no short-term rental use" rather than specify a number of days.
- He supported the State language with respect to the public transit issue.

Commissioner Newton provided the following comments:

- The definition of public transit was pretty straightforward.
- All the stops in Fairfax were weekend and weekday service.
- They could run into trouble if they were more lenient than what State law requires.
- She was not sure the Council had the motivation to grapple the short-term rental issue. Planning Consultant Whitman stated his understanding is that the Council is supportive of limiting short-term rentals in ADU's.
- She would like the Council to seriously consider the amnesty program.
- The Ordinance should include a definition of what constitutes a detached unit.
- Town Code §17.048.060(B) should include how long a unit needs to be rented to constitute a rental unit.
- Town Code §17.048.060(I), Setback Standards, should include the provision that adequate information be provided to demonstrate compliance with State Law.
- Indicate in the Standard sections what information is required to determine compliance with design standards.

Commissioner Ackerman provided the following comments:

- He agreed with Commissioner Newton's comments about the public transit issue.
- He supported the State language.

Commissioner Green provided the following comments:

- The ordinance should serve to educate the public.
- The Definitions Section should include a definition of a "Complete Application". Planning Consultant Whitman stated that could be included in the Submittal Requirements Section.
- He asked if there was an appeal process for applications that were not approved. Planning Consultant Whitman stated he did not think a ministerial action could be appealed- it could be litigated. Zoning Technician Levenson stated there was an appeal section in the former ordinance.

Commissioner Gonzalez-Parber provided the following comment:

- She referred to Section 17.048.050(D), Submittal Requirements, and stated exterior elevations and building sections and other information sufficient to demonstrate compliance with other applicable development and design standards should be included.

M/s, Newton/Green, Motion to adopt Resolution No. 17-11 with the changes noted by the Planning Commission tonight including but not limited to; 1) use of accessory dwelling units for short term rentals should be prohibited; 2) the Council should reinstate the amnesty program for legalizing existing second units that comply with the regulations; 3) a "complete application" definition should be incorporated into the ordinance; 4) the submittal requirements section should be amended to include a description of required elements such as exterior elevations, floor plans and other information necessary to determine compliance with the ordinance; and, 5) include a definition of for "detached unit".

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

ABSENT: Kehrlein

2. 125 Live Oak Avenue.; Application #17-13

Continued consideration of a request for a Hill Area Residential Development Permit, Parking Variance and Design Review Permit for a 50% remodel/expansion of an existing 1,910 sf. single-family residence into a 1,962 sf. single-family residence; Assessor's

Parcel No. 001-236-03; Residential RD 5.5-7 Zone; Dan Bettencourt, applicant/owner; CEQA categorically exempt per Section 15301(a).

Chair Fragoso stated this item has been continued.

3. 50 Scenic Road; Application #17-03

Request for a Conditional Use and a Side Setback Variance to remove an existing, deteriorated 224-square-foot detached garage and construct a new 266-square-foot detached garage 11 feet to the northeast of the location of the existing garage that would be removed; Assessor's Parcel No. 001-131-20; Residential Development RD 5.5-7 Zone; Laura Kehrlein, Fredric C. Divine Architects; Thomas Sellars and Jeanne Lotta-Sellers, owners; CEQA categorically exempt per Section 15303(e).

Zoning Technician Levenson presented the staff report.

Commissioner Green asked whether there is a technical reason for a minimum lot size and width requirement for sloped lots. Zoning Technician Levenson stated the Town Code requires a Use Permit for construction on any lot that does not meet the minimum width or area requirements. Commissioner Ackerman stated this requirement has been on the Commission's list of things to look at.

Chair Fragoso opened the Public Hearing.

Mr. Tom Sellers, owner, made the following comments:

- He thinks the garage was built in 1920 (along with the house)- it is falling off its foundation.
- It is not a sound building.
- It is right up against the property line.
- There is a bit of a grade on the adjacent property.
- They want to put the garage on a higher foundation to keep the water out.
- The adjacent neighbors approve of the project.
- They want to push the garage back to provide ample parking and not encroach into the sidewalk.

Commissioner Green asked if the artist's studio was used as a studio. Mr. Sellers stated "yes".

Commissioner Ackerman asked about the type of roofing on the house. Mr. Sellers stated it was composite shingle. The garage will match the aesthetics of the house.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comment:

- This is a terrific project- pushing the garage back, modernizing and improving it, and creating extra parking.

Chair Fragoso provided the following comments:

- She agreed with Commissioner Green- this project is a "win-win" for everyone.
- This is a good design and a straightforward idea.

Commissioner Ackerman provided the following comments:

- This is an excellent, straightforward application.
- He liked the idea of improving the foundation to keep the water out.
- He liked the idea of moving it back to improve the parking.
- It was a good idea to have interconnected smoke detectors.

Commissioner Swift provided the following comment:

- She suggested a few edits to the resolution including deletion of the reference to the Design Review Board).

M/s, Ackerman/Green, Motion to adopt Resolution No. 17-04, 50 Scenic Road, with the edits suggested by Commissioner Swift.

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

ABSENT: Kehrlein

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

4. 287 Bolinas Road; Application #17-18

Request for a Conditional Use Permit to reconstruct an existing 378 square-foot attached garage by constructing a 315-square-foot carport, relocating a parking space to the front portion of the property and repairing and expanding 104 square feet of decks by 142 square feet (proposed decks would total 246 square feet); Assessor's Parcel No. 001-234-01; Residential Development RD 5.5-7 Zone; Meredith Mill, applicant; Lindy Fleming and Philip Andrews, owners; CEQA categorically exempt per Section 15303(e).

Zoning Technician Levenson presented the staff report.

Chair Fragoso stated there were two carports on the property and she asked if the first one was getting rebuilt and the deck would be added to the second one. Zoning Technician Levenson stated the first garage was being rebuilt. They share a wall and the deck in between the house and the garage would get expanded. Chair Fragoso asked where the third parking space would be located. Zoning Technician Levenson referred to Sheet A1.1 and the proposed 9' X 19' parking space.

Commissioner Gonzalez-Parber asked about access to the carport and if the concrete wall was below grade. Zoning Technician Levenson stated it was a low wall but there was a slight grade differential.

Chair Fragoso opened the Public Hearing.

Mr. Phillip Andrews, owner, made the following comments:

- The wall was a retaining wall for the sloped driveway.
- They can park three cars at the top of the driveway- there is plenty of room.

Commissioner Ackerman asked if the new parking space would be located to the southwest of the wall. Mr. Andrews stated "yes". Zoning Technician Levenson stated it was protruding a bit into the roadway utility easement and staff was working with the applicant on a recorded utility easement modification document.

Commissioner Swift referred to Sheet A1.O and the erroneous statement that the project was not within the Wildland Urban Interface Area. Zoning Technician Levenson stated this is an error on the plans.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- This is the type of project the Commission likes to see- it provides more parking and complies with the code.

- He supported the project.

Commissioner Gonzalez-Parber provided the following comments:

- She agreed with Commissioner Green.
- This is a small change that would make a huge difference.
- This is a nice project- she supports it.

Commissioner Swift provided the following comment:

- She noted several typographical errors in the resolution.

Commissioner Green provided the following comment:

- He would like to retain a reference to Design Review in the resolution's conditions but delete the reference to a Design Review Board.

M/s, Green/Newton, Motion to adopt Resolution No. 17-18, 287 Bolinas Road, with the edits suggested by Commissioners Swift and Green.

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

ABSENT: Kehrlein

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

The Commission took a 10-minute break at 9:15 p.m.

5. 1569 Sir Francis Drake Boulevard; Application #17-20

Request for a modification of a Conditional Use permit approved in 2005 and a Parking Variance to convert an existing 600-square-foot, barn structure for use as a 660-square-foot of additional day-care space with 371 square-feet of second story office space; Assessor's Parcel No. 002-213-16; Highway Commercial CH Zone; Shelby Green, applicant; David and Helen Segale, owners; CEQA categorically exempt per Section 15301(a).

Chair Fragoso stated this item has been continued.

6. 31 Bolinas Road; Application #02-39

Request for a modification of an existing Use Permit and Design Review to alter an approved landscaping plan, legalize the outdoor use of 2 outdoor rear-yard areas for use by Four Paws, and Yoga Mountain, and legalize other minor exterior changes to an existing commercial complex and for a hedge Height Variance to legalize an existing bamboo hedge; Assessor's Parcel No. 002-122-46; Fredric C. Divine Associates, architects; Brad Schwan, owner; CEQA categorically exempt per Section 15301(a) 15303(e), and 15304(b).

Zoning Technician Levenson presented the staff report.

Commissioner Green thanked the applicant for submitting reasonably sized plans. He was generally against allowing roofs to be raised since it could set a precedent with respect to height exceptions. He asked if the equipment on the roof was the reason for the variance request. Zoning Technician Levenson stated the request was to allow the bamboo hedge to exceed the 6' maximum. Chair Fragoso asked about the location of the bamboo hedge. Commissioner Swift stated they were on the Mono Lane side. Commissioner Newton asked if the Commission could set a limit to the height. Zoning Technician Levenson stated "yes".

Commissioner Swift has a question about the outdoor storage sheds. Zoning Technician Levenson stated any storage shed in the Central Commercial (CC) Zone requires a Use Permit. Commissioner Swift asked if it made a difference that the sheds were in an enclosed backyard of a business. Zoning Technician Levenson stated she did not think so.

Commissioner Swift referred to the request for the removal of proposed planting bed and asked about its location.

Chair Fragoso opened the Public Hearing.

Mr. Fred Divine, architect, made the following comments:

- He has few concerns with the staff report.
- The storage shed is in the back of Space D. It is from the original approval.
- He displayed a current site plan and pointed out the shed.
- The issues are simple- the uses in the two back yards need to be defined. Everything else is pretty laid out in the staff report.
- Yoga Mountain would not be doing massage in the back yard. That area is only for meditation.
- The applicant wants the hedge higher than 6 feet for privacy. It is approximately 14' high and they would be willing to keep it at this height.
- A triangular planter on the Bolinas side was eliminated to create the garbage enclosure.
- He pointed out the roof equipment that would be screened. Chair Fragoso asked if this equipment was previously permitted. Zoning Technician Levenson stated "yes".
- He discussed the vantage points from which the equipment could be seen.
- The original permit did not require screening of the equipment. Commissioner Ackerman disagreed.
- They will come up with some type of screening for the equipment.
- The reference to an occasional anniversary celebration or open house was a way to define events that might happen outdoors.

The owner of For Paws Pet Shop made the following comments:

- She would like to have the option of having an outdoor dog bath.
- She would like to use solar energy to warm the water.
- The dog bath would be a shower pan and would connect into a drain.
- The showerheads would be about two to three feet high and on a pole. Zoning Technician Levenson stated the building code requirements were the same for an outdoor shower- connect into the sewer, have a cover to prevent rainwater intrusion, etc.
- The Chamber of Commerce is implementing a First Friday Night program which includes shops staying open later to accommodate art and music.
- She purchased a new washer and dryer and they will remain in the current location.
- Her business is an LLC and not a franchise.
- The pergola would be a pre-fabricated unit, 11' x 11', and would be similar to an umbrella. It would be in the outdoor area. Zoning Technician Levenson stated the maximum height was 15' and it would need to be outside of any setbacks. She noted it was not included on the applicant's list of requested modifications.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comments:

- They should not necessarily reject the dog stations as long as it complies with the Building Code, etc.

- The issue of the pergola was not noticed as a part of this application. However, it is in the back yard area and she would be willing to add it to the list of requested modifications. It should meet all the necessary code requirements.
- She was not sure setting a limit for the bamboo was a good idea since nobody would have a problem with it. It would add to the ambiance and was a privacy issue. It provides screening.
- She noted two typographical errors in the resolution.
- She referred to the resolution, Use Permit Findings, and stated it should include a reference to the bamboo height, the pergola (no taller than 15' and 120 square feet in size), and storage shed.
- She referred to the resolution and stated the following condition should be added: "The dog washing station and pergola should otherwise conform to any applicable codes and requirements".
- The mechanical equipment should be screened on the north, south, and west elevations and should be reviewed by the Building Inspector.

Commissioner Gonzalez-Parber provided the following comments:

- She does not have an issue with the dog washing stations.
- Bamboo can get very tall and she wanted to limit it to 14 feet.
- The mechanical equipment should be screened with something permanent, perhaps perforated metal.
- She was happy they were covering up the electrical panels.
- She could approve everything else.

Commissioner Swift provided the following comments:

- She agreed with Commissioner Newton- she does not have a problem with the pergola.
- The mechanical equipment should be screened on all sides. Lattice might not work since it is not sturdy and could be temporary.
- She supported the revised landscaping, the PVC roof panel, and the curtains in the patio area.
- She is going to assume that the garbage enclosure is already there.
- She supported the elimination of the awning for the building.
- The bamboo is unsightly and could be a fire hazard- she would like to reduce it to the height of the fence.
- The references to the Traffic Impact Permit should remain in the resolution.
- She referred to the third condition in the resolution and stated it should read: *The changes proposed to be made.. and be approved by the Commission or staff prior to implementation...."*

Commissioner Ackerman provided the following comment:

- The maximum height of the bamboo should be 14 feet and should be better maintained.

Commissioner Green provided the following comments:

- The bamboo should be kept at a uniform height.
- The applicant should work with staff on the mechanical equipment screening- something that does not show.
- He supported everything else.
- He referred to the resolution, condition #12, and stated it should read: *"The air conditioner units and other equipment on the roof on all sides of the property visible from public right-of-ways..."*.

Chair Fragoso provided the following comments:

- She does not have a problem with the dog washing stations.
- The bamboo should be kept at 14' high and be well maintained.
- She supported a larger garbage container.

- She would like to see current, complete, accurate plans prior to things being built.
- She could support the pergola.

M/s, Newton/Gonzalez-Parber, Motion to adopt Resolution No. 17-22, 31 Bolinas Road, as amended by the Commission.

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

ABSENT: Kehrlein

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

7. 31 Bolinas Road; Application #17-10

Request for a Sign Permit and an encroachment Permit for a multiple business sign program for 3 of the tenants in an existing commercial complex; Assessor's Parcel No. 002-122-46; Brad Schwan, applicant/owner; CEQA categorically exempt per Section 15305(b) and 15311(a)

Planning Technician Levenson presented the staff report. She noted staff was recommending approval of the design modification as depicted in Attachment C (prepared by staff).

Commissioner Ackerman stated there was an incorrect dimension in Attachment C- the measurement from the sidewalk to the bottom of the For Paws sign should be 6 ½ feet and not five feet. Chair Fragoso asked if there should be an eight-foot clearance. Commissioner Ackerman stated the sign was not hanging over the sidewalk. Zoning Technician Levenson agreed- it was not projecting over the sidewalk but rather set back in against the fence.

Chair Fragoso asked for clarification regarding the direction of the projecting sign (up against the fence, sticking out over sidewalk, etc.).

Commissioner Swift had a question about one of the signs that would be removed. She referred to a provision in the Sign Ordinance regarding the expiration of sign approvals if not acted upon in six months and asked that it be included in the resolution.

Chair Fragoso opened the Public Hearing.

Mr. Fred Divine, architect, made the following comments:

- The application is correcting some signs that were put up without permits.
- They support the staff report.
- Each of the three businesses will have two signs.
- Commissioner Ackerman is correct- the math in Attachment C is not correct.
- They could place a bollard under the For Paws sign so that nobody hits his or her head.
- This sign is exactly on the property line- it is not in the pathway but rather the line of the fence that was taken down.
- The sign is perpendicular to where the fence would have been.
- Nobody will walk through this area.
- They support the staff report and modification.
- He did not realize the signs were slightly over the size allowed. They could be reduced in size to bring them into compliance.
- The signs would be mounted to the cross-arm so they are not flopping around. It could be a rigid connection at the cross-arm and vertical pole.

Chair Fragoso closed the Public Hearing.

Commissioner Ackerman provided the following comments:

- The plan should be changed to indicate a measurement of 6 ½ feet, and not five feet, from the sidewalk to the bottom of the For Paw sign. No bollard would be needed.
- It should also be indicated that the drawing is not to scale.

Chair Fragoso provided the following comments:

- She does not have a problem with the signs at each door (the blade signs). There is clearly an 8' clearance.
- These are attractive little signs.
- She has a problem with the blade signs at the street because she cannot tell exactly where they will wind up on the property. She would like to see exact dimensions.

Commissioner Swift provided the following comments:

- She was fine with the signs- they were all the same size and would look nice.
- She supported the application with the changes made by staff.
- There is an error on page 3 of the architect's plans that indicates that the existing sign would remain- it is going to be removed. Mr. Divine agreed.

Commissioner Newton provided the following comments:

- She noted a typographical error in the resolution.
- The resolution should reference the plan prepared by staff.

Commissioner Green provided the following comment:

- The resolution should reference the plans prepared by Fredric Divine *as modified by staff in Attachment C*.
- He recommended the following additional condition: All signs shall be attached to the pole and the crossbeam so they do not flap in the wind.

M/s, Ackerman/Green, Motion to adopt Resolution No. 17-21, 31 Bolinas Road, as amended by the Commission, and noting that Attachment C as prepared by staff was not to scale and that page 3 of the architect's plans incorrectly states that the existing sign would remain.

AYES: Ackerman, Gonzalez-Parber, Green, Newton, Swift

NOES: Chair Fragoso

ABSENT: Kehrlein

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

DISCUSSION ITEMS

Chair Fragoso asked about upcoming applications for June.

Commissioner Newton stated the Sixth Annual Benefit for Open Space Committee was being held on Sunday in Peri Park from 1:30 p.m. to 6:00 ish.

MINUTES

8. Minutes from April 26, 2017 Planning Commission regular meeting.

Chair Fragoso stated the approval of the minutes has been continued.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:29 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary