

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
FAIRFAX WOMENS CLUB  
THURSDAY, SEPTEMBER 21, 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)  
Laura Kehrlein  
Mimi Newton (arrived 7:30)  
Cindy Swift

Commissioner Absent: Philip Green  
Esther Gonzalez-Parber

Staff Present: Linda Neal, Principal Planner  
Michelle Levenson, Assistant Planner

### APPROVAL OF AGENDA

M/s, Swift/Kehrlein, motion to approve the agenda with the addition of Commissioners Requests and Comments after the Planning Director's Report.

AYES: Ackerman, Kehrlein, Swift, Chair Fragoso

ABSENT: Gonzalez-Parber, Green

### PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

### PUBLIC HEARING ITEMS

- 1. 760 Center Boulevard; Application No. 17-30  
Request for a Sign Permit for the "Java Hut" drive-thru coffee establishment. The proposed signs would each be 12.3 square feet in size (a total of two signs are proposed). Assessor Parcel No. 002-131-13; Central Commercial CC Zone; Rich Dowd, applicant, Rich Hall, owner; CEQA Categorically Exempt per section 15301(g).**

Assistant Planner Levenson presented the staff report.

Chair Fragoso opened the Public Hearing.

Commissioner Ackerman asked if staff's concern with the colors had to do with them harmonizing with the rest of the building. Assistant Planner Levenson stated "yes".

Commissioner Swift referred to the Sign Ordinance and noted the building was unique since it had four sides. The ordinance talks about "frontage" and the main access to the building. Principal Planner Neal stated the frontage and access to the building was Center Boulevard. Commissioner Swift asked about the intent behind the restriction of internally illuminated signs. Principal Planner Neal stated she had heard that the intent was to discourage plastic, internally illuminated signs that are commonly found in strip malls. The proposal does not call for internally illuminated signs.

Mr. Rich Dowd, applicant, made the following comments:

- This is a unique situation- they building has two frontage roads (Center is the primary and Sir Francis Drake is the secondary).
- A fairly straightforward sign would be placed on both sides.
- The proposal is well below the allowable square footage.
- The sign is made of steel and ties in with the steel canopies and trellises.
- The business has always had a sign with red sign copy.
- The font is unique.
- The lighting has been clearly described- LED's on the top and bottom that will project light onto the sign lettering.
- The siding of the building will be gray.
- The building palette is gray, dark black, with dark gray trim. Red works very well with this color palette.
- There are other red signs in Fairfax (Architect passed out photos of other similar signs in Fairfax to the Commission).
- The sign is 6' in length and 2' in height- the letters are about 15" tall.

Chair Fragoso asked Mr. Dowd to submit the photographs.

Commissioner Swift asked if the lighting on the sign would be turned on and off according to business hours. Mr. Dowd stated "yes", it would be on a timer. Commissioner Ackerman stated the timing would be important- he did not want the lighting on at 2:00 a.m.

Chair Fragoso asked about the size of the LED strip (1/4" or 1/2" in diameter). Mr. Dowd stated the strip was flat with the LED's adhering to the length of it. There will be a 3/4" steel lip around the sign that will direct the light towards the lettering. Chair Fragoso asked if they would create a strange shadow. Mr. Dowd stated he did not think so.

Commissioner Kehrlein asked if the letters were individually cut. Mr. Dowd stated "yes".

Chair Fragoso asked if there was a limit to the size of the letters. Assistant Planner Levenson stated "no", but there is a maximum for the square footage of the sign. It is based on the frontage of the building- one square foot of sign for each one linear foot of building frontage.

Ms. Denise Larson made the following comments:

- She asked if the signs would be on the roof or the side. Chair Fragoso stated the two signs would be attached to the north and south sides of the building.
- She hoped the building would not block the views of the trees.

Chair Fragoso closed the Public Hearing.

Commissioner Ackerman provided the following comment:

- Vehicles would be going through the "hut" from both directions so two signs makes sense.
- He supported the colors.
- He did not have a problem with both signs being lit.
- LED lighting is pretty mellow.
- The lighting should be turned off at 8:00 p.m.
- He suggested they wire the north side in such a way that would allow it to be turned off earlier.

Commissioner Swift provided the following comments:

- She was concerned about adding a lighted sign on the Sir Francis Drake side.
- She was not sure if the sign would be viewable by the residents looking down from the hills.

- There are no lighted signs in this area at this time.
- She could approve two signs- the Center Boulevard sign could have lighting. The Sir Francis Drake Boulevard sign should not have lighting.
- The red color does stand out.

Mr. Dowd stated they can control the “temperature” of the lighting- they will not have a “5,000 K” type of light. The lighting will have a nice, soft glow.

Commissioner Kehrlein provided the following comments:

- She did not have an issue with the red color. It will compliment the other colors.
- She does not have a problem with lighting on both signs.
- She supported the proposal.

Chair Fragoso provided the following comments:

- She likes the script and the colors.
- She is not that concerned about the lighting as long as they are turned off after the business hours have ended.

M/s, Kehrlein/Ackerman, motion to approve Sign Application No. 17-30, 760 Center Boulevard, subject to the conditions set forth in the staff report and the following conditions: 1) The lighting shall be turned off at the close of business hours; 2) The bulb temperature for the LED lighting shall be 3,000 “K”.

AYES: Ackerman, Kehrlein, Chair Fragoso

NOES: Swift

ABSENT: Gonzalez-Parber, Green

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

## **2. 19 Acacia Drive; Application No. 17-33**

**Request for a Conditional Use Permit, Retaining Wall Height Variance and Encroachment Permit to replace and slightly relocate a failing retaining wall and renovate the interior of a single-family residence; Assessor’s Parcel No. 001-112-32; Residential Single-Family RS 6 Zone; Thomas Derring, applicant/owner; CEQA Categorically Exempt per section 15301(a).**

Assistant Planner Levenson presented a staff report. She noted there was an error in the staff report- there is no requirement for sprinklers from the Ross Valley Fire Department.

Chair Fragoso asked if the new wall would be set back from the street in the right-of-way. Assistant Planner Levenson stated “yes”. Chair Fragoso asked if this would allow for parking along that wall. Assistant Planner Levenson stated there would be a parking space created there- but it could not be designated for this property owner, a limitation placed on the parking space by the Ross Valley Fire Department. Chair Fragoso asked about the size of the space.

Commissioner Swift stated the resolution should require a “before and after” video of the roadway. She had a question about the smoke detector requirements. Principal Planner Neal stated the requirement for interconnected systems was not uncommon.

Chair Fragoso opened the Public Hearing.

Mr. Thomas Derring, applicant, made the following comments:

- The parking area in front of the wall will be surfaced with permeable blocks.

- A carport is at the end of the wall. The carport walls are poured concrete and the parking surface is asphalt.
- He was concerned about the requirement for an earth-tone color for the concrete wall- they have a very large, tall, and heavy carport that is standard concrete gray.
- He would like to use a process that would age the new concrete.
- This is a wooded lot that has never been landscaped. It is a house in the woods.
- Landscaping is sometimes not easy to get to survive and thrive under redwoods given the acidic nature of Redwood trees.
- He would not mind an occasional cascading Rosemary plant but is worried about what the deer will eat.
- He does not want to use ivy- it attracts rats.

Chair Fragoso referred to the photograph and asked where the stairs would end in relation to the location of the property line.

Commissioner Kehrlein referred to the color of the retaining wall and asked if it could be painted. Assistant Planner Levenson stated the intent is to minimize the visual appearance of the wall from the road- this could be accomplished through texturing or paint. Principal Planner Neal agreed with Mr. Derring- it would look odd to have a different colored wall. She suggested texturing the wall and not painting it.

Mr. Steve Scales made the following comments:

- There is a lot of precedence for natural concrete on the mountainside.
- Coloring the concrete would not look right.
- He is in favor of the aged concrete.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comments:

- She noted a typographical error on page 5 of the staff report, in the second “Whereas” of the resolution, and in the RVFD Condition #1.
- She is not inclined to require a particular color for the concrete. It should match the existing structure.
- A couple of cascading plants would be nice but she would not want to require much more than that.

Commissioner Ackerman provided the following comments:

- The owner could stain the wall and the parking structure.
- He would not recommend ivy.
- He was glad to see the installation of a gray-water recycling system.

Chair Fragoso provided the following comments:

- She was not in favor of the requirement for earth-colored concrete.
- She did not have a problem with cascading plantings but she did not recommend ivy.
- She was in favor of the height of the wall- it would hold back that hillside.

M/s, Newton/Swift, motion to approve Resolution No. 17-31, 19 Acacia Road, with a modification to Condition #14 that deletes the words “an earth colored concrete shall be used”, the removal of Ross Valley Fire Department (RVFD) Condition #2, and the edits pointed out by Commissioner Newton.

AYES: Ackerman, Kehrlein, Newton, Swift, Chair Fragoso

ABSENT: Gonzalez-Parber, Green

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

- 3. 1573 Sir Francis Drake Boulevard; Application No. 17-34**  
**Request for a Design Review Permit and a Sign Permit to renovate and slightly expand (91 square feet) an existing building to accommodate a delicatessen (“The Lodge”). A total of 5 parking spaces (including 1 ADA-compliant space) would be provided. Outdoor seating and barbecuing are not being proposed at this time. Assessor’s Parcel No. 002-213-10; Highway Commercial CH Zone; Brian and Lori Buckner, applicants/owners; CEQA Categorically Exempt 15301(a).**

Assistant Planner Levenson presented a staff report.

Chair Fragoso thanked Assistant Planner Levenson for the excellent staff report.

Commissioner Swift had questions about the transportation engineer’s trip report. Principal Planner Neal stated the code states that the new use should be compared to the previous use. Commissioner Swift asked if the report takes into consideration the size of the roadway. Principal Planner Neal stated the engineers use the Transportation Manual- they do not study the specific site or take traffic counts. Commissioner Swift asked if there has been an analysis of the potential impacts to traffic from the two driveways. Principal Planner Neal stated “no”. Commissioner Swift referred to the requirement for screening the roof equipment and how this would impact the historical review of the property. Assistant Planner Levenson stated the architect with APD Preservation LLC reviewed the plans as part of the evaluation. Chair Fragoso stated the equipment is at the back of the building and not at the historic part of the structure.

Commissioner Newton referred to page 2 of the staff report and noted the “drip line” of the Redwood trees is located in the area of the proposed addition. She had questions about traffic impacts and asked if the time the businesses were frequented was taken into account in the traffic report. Planning Director Neal stated “no”- if a traffic hazard is created then staff would get the traffic engineer out there to make suggestions. Chair Fragoso stated this issue was addressed in Condition #7 of the resolution. Commissioner Newton stated the citation in this condition should be Town Code Section 17.056.070. She noted several other typographical errors.

Chair Fragoso opened the Public Hearing.

Mr. Brian Buckner, property owner, made the following comments:

- He has been talking to the owner of the property next door about the fence.
- He referred to the traffic concerns and stated the business would mitigate eastbound trips on Sir Francis Drake.
- They hope to get a lot of walk-in traffic.

Commissioner Ackerman asked if they plan to have any bike parking. Mr. Buckner stated “yes”. Chair Fragoso asked where and how many spaces. Mr. Buckner stated the bike parking would be located in the back, close to the building. He hopes to accommodate 30 to 40 bikes.

Commissioner Swift asked if they were moving the bar area in the back. Mr. Buckner stated “yes and no”- they are keeping the bar and moving it back a bit to allow for a bigger dining room. The back bar will be relocated inside the building and will serve as a decorative piece. Commissioner Swift asked if the lighting for the sign could be located at the top and shine down. Mr. Buckner stated there were currently two flood lights shining up. Mr. David Gill, architect, stated a lower source of light was more effective and created less glare. Commissioner Swift asked if the lights would be turned off when the business is closed. Mr. Gill stated “yes”.

Commissioner Ackerman asked them to consider the options offered by LED's to avoid "light spill". Chair Fragoso wondered if LED's would compromise the historic look of the building. Principal Planner Neal stated they could add a condition that requires historic review of the way the sign is lit prior to issuance of a Building Permit.

Commissioner Newton stated the inside of the building was not included in the historic review- she thinks this is important from a Fairfax perspective.

Mr. Buckner made the following comments:

- He is a history buff.
- He would like to preserve the building in perpetuity and only make changes that are required by code.
- The bar is staying, the back bar will be relocated, and the floors are staying.
- The horse "tie-ups" in the front will remain.

Commissioner Kehrlein asked about the plans for the sign- with it be raised letters, or will the lettering be painted over what is already there, etc.

Mr. Gill made the following comments:

- They plan to put a wood template over it in the same shape and the words "The Lodge" would be cut out.

Mr. Jim Donahue, Ramona Way made the following comments:

- His backyard is 50 to 75 yards from the parking area.
- He was concerned about the possibility of an outdoor area with alcohol being served.
- He had questions about an Alcoholic Beverage Control (ABC) license.

Principal Planner Neal stated business is supposed to take place inside buildings in the Highway Commercial Zone. They could apply for a Conditional Use Permit to do some aspects of the business outside.

Ms. Denise Larson, Scenic Road, made the following comments:

- The applicant stated he did not want to apply for outdoor use "at this time".
- It sounds like it is coming down the road.
- It is very difficult to get out of the parking lot and turn left onto Sir Francis Drake Boulevard.
- She is glad to hear they plan to preserve the inside of the building.

Mr. Steve Scales made the following comments:

- George Lucas used to get his hair cut at the Beauty Bar.
- He was glad they were preserving the structure.
- This is a great use of this iconic building.
- Parking and traffic in Marin is getting horrible. Most locals will not drive to this business.
- This is a good alternative to driving to San Anselmo.

Commissioner Swift had questions about the lighting for the parking and any potential impacts to neighbors. Mr. Gill stated there was currently no overhead lighting for the parking. There are some wall mounted fixtures at the doors in the back. A resident said there was lighting for the back parking lot that was provided by the day care center. Chair Fragoso asked the owner if he would install landscape lighting and motion sensing lights on the building in the back.

Mr. Donahue, Ramona Way made the following comments:

- There is a flood light at the day care center that illuminates the inside of his house. It is on all night.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comments:

- She referred to the sign and the LED vs. historical nature of the lighting and stated the current spot light was not good.
- “Historical” and “good” are not necessarily synonymous.
- She would leave it up to the owner- they will be sensitive to the appropriate lighting.
- She wanted to make sure the full arborist’s report was a part of the record.

Commissioner Kehrlein provided the following comments:

- She referred to the sign and stated she would like to see some relief- raised or reverse letters. This should be a condition of approval.
- The sign is a real asset.
- This is a great application.
- The property has been neglected.
- She would like to add a condition about security lighting.
- The arborist’s report only speaks to the Redwood tree- it should refer to the Oak tree or should say “trees”.

Commissioner Ackerman provided the following comments:

- He agreed with Commissioner Newton’s comments about the sign.
- This is a good project overall.
- They cannot order a traffic study.
- Making a turn onto Sir Francis Drake is problematic.
- He has no concerns about the project.
- The lights in the back should be on motion sensors or timers after hours. They need to be sensitive to the neighbors

Chair Fragoso provided the following comment:

- They should keep the lighting that they have since it was approved by the historical consultant.

M/s, Kehrlein/Ackerman, motion to approve Resolution No. 17-34, 1573 Sir Francis Drake Boulevard, and with the additional conditions: 1) The sign shall have relief with raised or reverse (carved into the sign) letters; 2) Any exterior lighting shall be dark sky lighting so it directs the light directly down.

AYES: Ackerman, Kehrlein, Newton, Swift, Chair Fragoso

ABSENT: Gonzalez-Parber, Green

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

The Commission took a 10-minute break at 9:35 p.m.

**4. 75 Woodland Road; Application #19-35**

**Request for a Use Permit and Combined Side Setback Variance for a 24-square-foot, window seat addition to a 2,477 square-foot, three bedroom, 2 bathroom, single-family residence; Assessor’s Parcel No. 003-081-40; Residential Single-family RS-6 Zone; Baird Wheatley, applicant, Alexis Tatarski, owner, CEQA Categorically Exempt per section 15301(e)(1).**

Principal Planner Neal presented a staff report.

Commissioner Swift had a clarifying question about a Ross Valley Fire Department requirement.

Commissioner Ackerman asked if tempered glass was required by the Ross Valley Fire Department because the property is in the Wildland Urban Interface (WUI) Area. Principal Planner Neal stated “probably”.

Commissioner Newton referred to the resolution, Conditions #2, #3, and #4, and stated the wording implies that the work is yet to be performed. She asked how that works when they are legalizing something that has already been done. Principal Planner Neal stated the work is not finished yet.

Chair Fragoso asked if this is a “popped out widow” or if the entire floor was “popped out”. Principal Planner Neal stated it was a window seat addition that does not extend to the ground.

Chair Fragoso opened the Public Hearing.

Mr. Alexis Tatarski, applicant, made the following comments:

- The window seat is 6’ long and intended as a reading nook or meditation space.
- He has spoken to his neighbors.

Mr. Ian Davidson, Toyon Drive, made the following comments:

- The stop work order on the non-permitted new second story window box facing his property is verification that the work is unacceptable and illegal.
- The construction continued after the “Stop Work” order was issued and the project was completed.
- The Building Code exceptions to the Planning Department rules that are allowing it to proceed are unacceptable.
- This window opening on the second floor facing his property negatively impacts his property value, its “sanctuary feeling” and the peaceful enjoyment of his property.
- They can now see the interior lights of the house through this window box.

Mr. Tatarski made the following comments:

- He appreciates the “sanctuary feeling” discussed by Mr. Davidson.
- Mr. Davidson’s lot is beautifully landscaped.
- There will not be any loud noises coming from this reading nook.
- Ambient light could not be seen through this window.
- He would be willing to install some curtains.
- He received letters of support from some of the neighbors. Principal Planner Neal read the letters.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comments:

- Her initial thoughts were that this project was not a big deal.
- The neighbor’s concerns have made her reconsider.
- She was concerned about legalizing something where the work has already been done- it should not necessarily be rewarded.
- She is having trouble with this application.

Chair Fragoso asked if the applicant would pay a fine or penalty. Principal Planner Neal stated “yes”. She noted the Town was not into punishment but rather compliance.

Commissioner Ackerman provided the following comments:

- The issue is trying to find the best resolution between two neighbors.



- This is a reading nook that will probably be used in the daytime.
- The neighbor is concerned about light emanating through the window at night.
- Curtains should be installed. He was not sure it should be a condition of approval.
- He strongly suggested they work out a compromise.

Commissioner Kehrlein provided the following comment:

- Could they make curtains a condition of approval? Principal Planner Neal stated “yes” but it would be a problem to enforce.

Chair Fragoso provided the following comments:

- The project is twenty-five square foot window area that is one hundred and seven feet away from the neighbor.
- General Plan policies and the findings that need to be made include the need to minimize visual mass. Twenty five square feet minimizes visual mass.
- She could make the other findings.

Commissioner Newton provided the following comments:

- They should not try to regulate curtains on windows- it is different than requiring an opaque window.
- They should say “yes” to the window or “no” to the window and not try to include the requirement for curtains.

Commissioner Swift provided the following comment:

- She agreed with the comments made by Commissioner Newton.

Commissioner Kehrlein provided the following comments:

- There is sufficient screening between the two properties.
- She has no objections to the application.

M/s, Ackerman/Kehrlein, motion to approve Resolution No. 17-33, 75 Woodland Road, as submitted.

AYES: Ackerman, Kehrlein, Newton, Swift, Chair Fragoso

ABSENT: Gonzalez-Parber, Green

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

## **PLANNING DIRECTOR’S REPORT**

Planning Director Berto submitted a written report that was included in the packet. Staff member Neal offered to read the report but the Commission indicated they had read it and reading it was not necessary.

## **COMMISSIONER COMMENTS AND REPORTS**

Commissioner Swift had a question about the process for approving the minutes, how the corrections are made, and how they are posted to the Website. Principal Planner Neal explained the process and explained that the Planning Director has some thoughts about how to make certain the review, approval and posting go more smoothly.

Commissioner Swift stated sign approvals were good for six months and she asked about Building Permit expirations. She asked if the Planning Department had a “tickler file” on projects. Principal Planner Neal stated staff has a “tickler file” for Hillside Residential Development (HRD) Permits (good for one year). They do not have a “tickler file” for Sign Permits.

Commissioner Ackerman asked that the Commission hear a presentation regarding historic preservation and preservation of the “feel” and “character” of downtown Fairfax at the next meeting.

## **MINUTES**

### **5. Minutes from August 17, 2017 Planning Commission meeting.**

M/s, Newton/Swift, motion to approve the August 17, 2017 minutes as corrected.

AYES: Ackerman, Kehrlein, Newton, Swift, Chair Fragoso

ABSENT: Gonzalez-Parber, Green

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:55 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary