

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
FAIRFAX WOMENS CLUB  
WEDNESDAY, APRIL 26, 2017

Call to Order/Roll Call:

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

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

Commissioners Absent:                    Bruce Ackerman  
    Philip Green  
    Laura Kehrlein

Staff Present:                                Linda Neal, Principal Planner  
    Michele Levenson, Zoning Technician

**APPROVAL OF AGENDA**

M/s, Newton/Swift, motion to approve the agenda with the following change; item #1 will be heard after item #6.

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

ABSENT: Ackerman, Green, Kehrlein

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

**PUBLIC HEARING ITEMS**

1. **145 Forrest Avenue.; Applicant #17-35**  
**Continued consideration of an application for a Conditional Use Permit to renovate and expand an existing single-family residence by 174 square feet, and remove an unauthorized vehicle pull-out and failed retaining wall; Assessor's Parcel No. 002-192-38; Residential RS 6 Zone; Erick Mikiten, Mikiten Architecture-applicant; Vakil Kuner, owner; CEQA categorically exempt per Section 15301(a).**

Zoning Technician Levenson presented a staff report.

Chair Fragoso opened the Public Hearing.

Ms. Sue Peterson, Forrest Avenue, made the following comments:

- She does not have a problem with the new plans.
- She is glad that the wall is being fixed first- that is important.
- Her parking area is right up against the subject property's driveway.
- The tendency is for someone to drive across her parking spot.
- She is concerned about construction damage to her parking area (asphalt pad) and retaining wall. It should not be used for construction staging.

- It is the only parking she has on her property.

Chair Fragoso asked if her parking pad was in the right-of-way. Ms. Peterson stated she was not sure how far her parking encroaches into the right-of-way. Principal Planner Neal stated there was a wall built on Ms. Peterson's property to create a parking space. The parking space could be a few feet into the right-of-way- but it does not matter since the wall was built to provide parking for the house. Commissioner Newton asked Ms. Peterson if she would be opposed to any temporary delineations- rubber stands with orange tape during construction. Mr. Peterson stated "no". Principal Planner Neal stated the Building Official could take photographs prior to construction with the temporary delineation. Language could also be included in the Construction Management Plan that prohibits construction activities in this area. Chair Fragoso stated she would also like to include some notice in the file that the subject property could not consider this parking pad their exclusive parking space. Principal Planner Neal stated staff could come up with some deed restriction language.

Mr. Erick Mikiten, architect, made the following comments:

- He read a letter from the property owner. The property owner asked the Commission to approve the application tonight.
- He acknowledged the neighbor's parking issue and stated they would be willing to put up signs, tape it off, etc.
- The edge of the property is clear- it is the transition from concrete to asphalt.
- About one-third of both parking areas are in the right-of-way.
- They have come up with a good solution that everyone is happy with.
- They would like to be under construction soon.

Chair Fragoso asked Mr. Mikiten about the phasing of the construction. Mr. Mikiten stated the contractor wants to get everything going right away and not phase the construction. Commissioner Gonzalez-Parber asked if the retaining wall would be repaired first. Mr. Mikiten stated he was not sure.

Chair Fragoso stated the Commission was concerned about the condition of the driveway when they first looked at the application. It seemed to be failing. Mr. Mikiten stated he initially wanted the driveway work to be a separate permit.

Commissioner Swift asked if the Town Engineer has any guidance or limitations about how they should approach the project in terms of working on the retaining wall and house at the same time, etc. Principal Planner Neal stated this was in the purview of the Commission- a condition could be added that the work on the driveway is done prior to the work on the house. The Town Engineer was not asked this question.

Mr. Ken Mayer, contractor, made the following comments:

- He has submitted a bid for the project.
- The driveway is in rough shape.
- He did not think the two Redwood trees were stressed.
- He asked for as much leeway as possible in staging the project.

Commissioner Newton stated her concern was the safety of the workers and the ability of the upper part of the driveway to support heavy vehicles. Mr. Mayer acknowledged the condition of the driveway. He did not necessarily see it as a safety issue and did not want to be forced to do this work first. Principal Planner Neal stated there are times when property owners end up putting money into the house but do not want to fix illegal situations or corrections.

Mr. Mikiten made the following comment:

- The turnout could be blocked off during construction.

Ms. Peterson made the following comment:

- She referred to item #6 of the resolution and noted the Use Permit was conditioned upon removal of the unauthorized retaining wall.

Chair Fragoso closed the Public Hearing.

Chair Fragoso provided the following comment:

- She recommended that a geotechnical engineer be on site during the grading process (initial phase) given the condition of the driveway and concerns about construction vehicles.

Commissioner Gonzalez-Parber provided the following comments:

- She would like to add some basic language that a professional would have to establish stability throughout the construction process.
- The arborist is concerned about stabilizing the driveway.
- She liked the project but has concerns about the retaining wall.

Commissioner Swift provided the following comments:

- This is an integrated project with everyone coming together to identify a solution.
- The Building Official will do inspections during construction.

Principal Planner Neal noted the Town Engineer was not sure what was under the driveway (tree roots, dirt) and he thought there might be some kind of movement. The Commission could condition the application upon the illegal improvements being removed and the applicant's engineer verifying it is stable or that they perform the minimum amount of work needed to be done to support construction vehicles. This should be done first.

Chair Fragoso provided the following comments:

- The applicant should submit a bond or letter of credit indicating they will complete the work on the driveway.
- She asked if there was a way to relocate the walkway.

Commissioner Newton provided the following comment:

- She suggested some changes in the language to the resolution.

M/s, Newton/Gonzalez-Parber, motion to adopt Resolution #16-28, 145 Forrest Avenue, with Commissioner Newton's changes in the language of the resolution and the following additional condition: 1) After removal of the illegal improvements, the project engineer shall verify the stability of the driveway subject to review by the Town Engineer. If additional stability is needed these improvements shall be subject to further review by the Town Engineer prior to construction on the house.

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

ABSENT: Ackerman, Green, Kehrlein

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

## **2. 196 Tamalpais Drive; Application #17-12**

**Request for a Conditional Use Permit to convert and enclose an existing, 136-square foot second-story deck to create a master bathroom and closet. Assessor's Parcel No. 001-**

**052-14; Residential RS 6 Zone; Leyla Hilmi, applicant; Chris Miller and Robin Goldman, owners; CEQA categorically exempt per Section 15301(a)**

Zoning Technician Levenson presented a staff report.

Commissioner Swift noted a typographical error on page 3 of the staff report.

Chair Fragoso opened the Public Hearing.

Mr. Craig Zellers, Tamalpais Road, made the following comments:

- He lives adjacent to the subject property and is the closest neighbor.
- He supported the project.

Ms. Leyla Hilmi, designer, made the following comments:

- This is a small project that would provide a huge benefit to the owners.
- There were no objections from the neighbors.
- An engineer has looked at the foundation and saw no problems.
- The intention is to match the existing siding and make it blend in as much as possible.

Chair Fragoso closed the Public Hearing.

Chair Fragoso provided the following comment:

- The project was straightforward.

Commissioner Gonzalez-Parber provided the following comments:

- This small addition would add a lot of function and value to the project.
- She supports it.

M/s, Gonzalez-Parber/Newton, motion to adopt Resolution No. 17-14, 196 Tamalpais Road.

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

ABSENT: Ackerman, Green, Kehrlein

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

**3. 125 Live Oak Avenue; Application #17-13**

**Request for a Hill Area Residential Development Permit, Parking Variance, and Design Review 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 15031(a)**

Principal Planner Neal presented a staff report.

Chair Fragoso had questions about the location of the turn-around and the alleged infringement on 130 Live Oak. Principal Planner Neal stated access to parking in one of the parking spaces could be blocked during emergencies.

Commissioner Swift asked if the V-ditch needed not only maintenance but also repair. Principal Planner Neal stated "yes".

Commissioner Newton asked if there was language in the resolution that requires the applicant to do anything about the turn-around. Principal Planner Neal stated they have to pay for the painting and the erection of the sign. It should be included in the resolution.

Commissioner Newton had questions about the engineer's letter, the street right-of-way, and the fee title deed. Principal Planner Neal stated the fee title deed is proof that they own the property. Commissioner Newton asked if the requirement for the fee title deed was included in the resolution. Principal Planner Neal stated "no"- the Commission could include it they choose.

Chair Fragoso opened the Public Hearing.

Mr. Kenneth Burley, partner in the project, made the following comments:

- He can get the grant deed in a couple of days.
- They have been working on the project for two years.
- They are trying to clean up this eyesore.
- The turnaround does not encroach on the neighbor's property.
- They can do an additional survey.
- It is a narrow road and there are no other options for the turnaround.

Mr. Albert Passon, soils engineer, made the following comment:

- He displayed a survey that shows how close the building was built to the property line.

Mr. Peter Lacques made the following comments:

- He is the owner of 130 and 132 Live Oak Avenue.
- He has no objections to the remodel- it is reasonable.
- He has five bedrooms and would need five parking off-street parking spaces to be in compliance with current codes. He has been using the area in front of the concrete planter for two of those spaces for many years. This area will be blocked off.
- This presents a hardship for him and his tenants.
- The Fire Department requirements would be a burden.
- This would force parking in tandem for his tenants- this is not a viable option.
- The applicant's survey should incorporate his property.
- He referred to condition #7 and asked if other options had been considered.
- The notice was postmarked on the 17<sup>th</sup>- there is a 10-day noticing requirement.

Chair Fragoso asked if this turnout requirement was something new. Principal Planner Neal stated "yes"- since the Urban Wildland Interface regulations were put into place. It is common in the hillside areas.

Mr. Chad Gregg, Live Oak Avenue, made the following comments:

- The removal of parking would increase the already existing hardship on Live Oak.
- Fire trucks already turn around on the street.
- There is one way in and one way out of this neighborhood.

Commissioner Newton stated confirmation of the location of Mr. Lacque's property line would not solve the parking problem. Mr. Lacques stated it was one thing to inflict a "no parking" zone under the assumption that it is a City right-of-way and quite another if it is on his property. This should be ascertained. He was asking for alternatives such as preserving one parking space or excavating the property across the street.

Chair Fragoso closed the Public Hearing.

Commissioner Gonzalez-Parber provided the following comment:

- She asked about the rules regarding removing trees in the public right-of-way. Principal Planner Neal stated it was the responsibility of the adjacent property owner to go through the Heritage Tree Removal process.
- She noted the 12' tree across the street could be removed to provide parking.
- The applicant has the right to improve his property.
- She understood the parking issue.
- Perhaps the Fire Department would work with the applicant on an alternative method/location.

Mr. Lacques stated he had discussions several years ago with the Fire Department about trimming a bit off of the hillside to the east of his property and a tiny bit of the area towards the middle of the road. He would like the opportunity to work with the applicant and the Fire Department.

Chair Fragoso asked if he would be willing to look at that area near the 12' tree near his property. Mr. Lacques stated "yes" but there could be other solutions.

Chair Fragoso asked if there would be a problem under the Permit Streamlining Act in continuing this item. Principal Planner Neal stated the Commission could, under the time limit of the Permit Streamlining Act, continue the application for one month.

Commissioner Gonzalez-Parber had a question about the 10-day noticing period. Principal Planner Neal stated she has never gotten an answer on whether or not the 10-day period includes the meeting date.

Commissioner Newton asked the applicant if they would support a 30-day continuance. Mr. Burley stated "yes"- they will get a survey of the other property and work with the neighbor on alternative parking. They believe, however, that they have satisfied all the necessary conditions.

M/s, Gonzalez-Parber/Swift, motion to continue application #17-13, 125 Live Oak Avenue, for 30 days to allow the applicant and the neighbor the opportunity to discuss with the Ross Valley Fire Department alternative methods for the turnaround and to verify the edge of the public right-of-way in front of 130 and 132 Live Oak Avenue.

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

ABSENT: Ackerman, Green, Kehrlein

The Commission took a 5-minute break at 10:00 p.m.

#### **4. 39 Wood Lane; Application #17-14**

**Request for a Hill Area Residential Development Permit, Excavation Permit, Design Review Permit and Fence Height Variance to construct a new 2,573 sf. single-family residence, a 536 sf. accessory dwelling unit, a 155 sf. carport, a 100 sf. shed and to repair a slide; Assessor's Parcel No. 002-1-081-04; Residential Single-family RS 6 Zone; Owen Donnelley, applicant/owner; CEQA categorically exempt per Section 15303(a).**

Principal Planner Neal presented a staff report. She noted the resolution does not talk about the second unit because it does not require approval based on the new State law. Commissioner Swift noted the resolution title does include a reference to it. Principal Planner Neal stated she included the reference because it was included in the plans. It could be deleted.

Commissioner Swift asked for clarification of the condition that required annual maintenance of the drainage system. Principal Planner Neal stated the plan for the slide repair includes a huge network of sub-drains. These need to be cleaned out. Chair Fragoso added the berm area at the base needs to also be maintained.

Commissioner Gonzalez-Parber asked who prepared the plans- they were not signed by a design professional. Principal Planner Neal stated she would need to ask the applicant. It is not a requirement.

Chair Fragoso opened the Public Hearing.

Mr. Owen Donnelley made the following comment:

- His wife designed the plans.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comments:

- This is a beautiful piece of property.
- She liked the design.

Commissioner Gonzalez-Parber provided the following comment:

- The design is beautiful.

M/s, Newton/Swift, motion to adopt Resolution No. 17-14, 39 Wood Lane, with the deletion of the reference to an accessory dwelling unit in the title.

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

ABSENT: Ackerman, Green, Kehrlein

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

**5. 101-191 Piper Lane; Application #17-15**

**Request for a Design Review Permit, Parking and Side-Yard Setback Variances and an Encroachment Permit for exterior changes to existing multi-family residential development including but not limited to abandoning the swimming pool and construct a 480 sf. combination office/community laundry and bathroom addition to one of the buildings; Assessor's Parcel No. 001-150-41; Residential Multiple Family RM Zone; Ethan Daniels, architect; EAH Housing, owner; CEQA categorically exempt per Section 15301(a) and (e)(1).**

Principal Planner Neal presented a staff report.

Commissioner Swift asked if the disabled parking was required due to the remodel. Principal Planner Neal stated developments should already be in compliance with ADA requirements.

Commissioner Swift referred to page 4 of the staff report and asked about the windows. Principal Planner Neal stated the windows would be double paned vinyl in black.

Commissioner Newton pointed out some typographical errors in the resolution.

Chair Fragoso opened the Public Hearing.

Mr. Ethan Daniels, Project Manager with EAH, made the following comments:

- EAH has been around since 1968 developing and managing affordable properties in the Bay Area.
- They are lining up the financing for the rehabilitation but they first need planning approvals.

Commissioner Swift noted they were putting in a Manager's office and she asked if they currently have an on-site manager. Mr. Daniels stated State law requires that they have a person of responsibility on site and they do have a maintenance person and property supervisor on site.

Chair Fragoso closed the Public Hearing.

Commissioner Newton provided the following comment:

- She does not have any issues or concerns with the project as proposed.

Commissioner Gonzalez-Parber provided the following comment:

- She supported the project.

M/s, Newton/Swift, motion to adopt Resolution No. 17-18, 101-191 Piper Court, with the corrections noted by Commissioner Newton.

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

ABSENT: Ackerman, Green, Kehrlein

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

**6. 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.**

Principal Planner Neal stated the Commission could not take action tonight since the required number of Commissioners were not in attendance. She asked for comments or concerns.

Commissioner Newton provided the following comment:

- She asked the Commission how they felt about the Residential Second Unit Amnesty Program- she would like to give the Council a strong recommendation to re-instate it. Chair Fragoso stated she agreed.

Commissioner Gonzalez-Parber had questions about the amnesty program. Principal Planner Neal stated the prior program significantly reduced application fees although applicants still had to go through the permitting process. The new State law limits the permits that a jurisdiction could require.

Commissioner Newton provided the following comments:

- She asked if there were restriction on the ADU being part of the existing residence or separate structures. Principal Planner Neal stated they could be both.
- She was thinking about the number of detached structures that could be used as an ADU.

Commissioner Swift provided the following comments:

- She has a lot of questions- she would forward them to Principal Planner Neal.
- She had questions about the parking requirements, what is meant by "public transit", what a "care-share" vehicle is, areas where the Commission has discretion, short-term rentals, etc.

Commissioner Gonzalez-Parber provided the following comments:

- The staff report states that an AEU could be up to 1,200 square feet but shall not exceed 50% of the existing square footage of the house. A 50% remodel or addition requires review by the Commission- but not if it is a second unit. This could be an issue.



- She asked if anything could be done to address exceptions or special conditions. Principal Planner Neal stated it would probably have to be done on a case-by-case basis.

Chair Fragoso provided the following comment:

- She liked the proposed changes to the ordinance.

Principal Planner Neal asked the Commission to email any comments.

## **MEETING MINUTES**

### **1. Minutes from the April 30, 2017 Planning Commission meeting**

M/s, Swift/Gonzalez-Parber, motion to approve the April 30, 2017 minutes as corrected.

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

ABSENT: Ackerman, Green, Kehrlein

## **DISCUSSION ITEMS**

There were no discussion items.

## **ADJOURNMENT**

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

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary



DRAFT 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 17.0480.050(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 Newman 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.

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.

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 it does 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