

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, OCTOBER 18, 2018

Call to Order/Roll Call:

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

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

Commissioners Absent: Norma Fragoso
Philip Green
Laura Kehrlein

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner
Garrett Toy, Town Manager
Janet Coleson, Town Attorney

APPROVAL OF AGENDA

M/s, Swift/Gonzalez-Parber, motion to approve the agenda as submitted.

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

ABSENT: Fragoso, Green, Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Ms. Diana Purdue stated her neighbor constructed a garage that now obstructs the flow of the creek. Principal Planner Neal stated the Building Official and engineers are of the opinion that the construction was fine. Staff will ask them to take a second look.

Ms. Valerie Hood, Dominga Avenue, submitted some information about 5G. She obtained signatures for a petition in opposition to the 5G rollout. She would like the Town to sponsor a forum about this issue.

Ms. Jess Lerner, Fairfax, stated she is on the 5G Free Fairfax Task Force and asked Commissioners to meet with the task force. The task force is meeting with electrical engineers, legal counsel, and people formerly in the industry to provide the Town with a comprehensive overview.

A Mill Valley resident discussed the 5G issue and recommended strengthening the current ordinance. She discussed the values of equity, supporting one another, and a shared sense of community. The current ordinance does not protect the mixed use and commercial zones.

Ms. Roberta Anthes, Snowden Avenue, stated she supported the amendments to the ordinance but was concerned about the exemption clause. She noted that facilities must be ADA compliant and Fairfax would not be able to comply with both FTA and ADA laws now that EMF sensitivity has qualified as a disability.

Mr. Richard Applebaum, Woodland Avenue, encouraged the Commissioners to meet with the representatives of the 5G Free Fairfax Task Force. He is concerned with the ordinance which was based on the Mill Valley Ordinance- it is not strong enough.

Rachel, Fairfax resident and business owner, stated she cares about the issue since it affects her physically- she is extremely sensitive to EMF's. There is a connection between EMF levels and serious health conditions.

Town Attorney Coleson referred to item #3 and stated the Fairfax Town Code requires an affirmative vote of not less than 2/3rd of the total voting membership for any Zoning Amendments. Any vote tonight would require five Commissioners- there were only four present. Staff recommended continuing this item to next week.

M/s, Rodriguez/Swift, motion to continue item #3 to the Special Meeting of October 25th.

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

ABSENT: Fragoso, Green, Kehrlein

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. 216 Scenic Road; Application #18-16

Request for a Use Permit and a parking variance to construct a 251 square foot, bedroom and bathroom addition onto an existing 537 square-foot studio cabin, increasing it to a 788 square-foot, 1 bedroom, 2 bathroom, single-family residence; Assessor's Parcel No. 001-025-22; Residential Single-family RS-6 Zone; Hossein Asghari, applicant/owner; CEQA categorically exempt per Section 15301(e)(1).

Principal Planner Neal presented the staff report. She noted the following changes to the Resolution: 1) Condition #4, item (c) shall be removed; 2) Condition #22 shall be added as follows: "The building permit application for the project must include legalization of the patio cover and must be obtained prior to the start of construction on the addition".

Chair Newton opened the Public Hearing.

Mr. Hossein Asghari, applicant, made the following comments:

- He wants to resolve the problem with drainage.
- He is open to modifying the back wall of the garage.

Chair Newton closed the Public Hearing.

Commissioner Gonzalez-Parber provided the following comments:

- The Commission was previously looking for the patio legalization- this has been included.
- She supports the project.

Commissioner Rodriguez provided the following comments:

- She referred to Resolution No. 2018-15 and suggested the following modifications: 1) Condition #1 should require that the paint match the existing building; 2) Condition #7 should give the Planning Director or staff authority to approve minor alterations that are consistent with the intent of the approval.

Commissioner Swift provided the following comments:

- She has concerns about the parking with respect to the location and safety.
- The parking was legal for a cabin without a bedroom.
- There is a fire hydrant across the street, no parking in front of it, and a one-way street.
- She cannot make the findings.

Chair Newton provided the following comment:

- Making this a one-bedroom (from a cabin) should not legally transform that dwelling unit into a different size dwelling unit that would require a change in the parking requirements.

Commissioner Gonzalez-Parber provided the following comments:

- She disagreed with Commissioner Swift.
- She is looking at this as a matter of special privilege compared to what everybody else has in this area.
- It starts to feel almost punitive because the required parking for a 1 bedroom house is the same as that for a 2 or more bedroom house.
- She referred to the table on page 3 of the report and stated that this property has more parking than other properties in the same neighborhood.
- The Floor Area Ratio is smaller than other properties.
- People have a right to improve their properties- it adds value to the neighborhood.

Commissioner Swift asked if the table included carports. Principle Planner Neal stated "yes"- some of the "zeros" (under garage) could be uncovered parking decks.

M/s, Rodriguez/Gonzales-Parber, motion to adopt Resolution No. 2018-15 with the following modifications: 1) Condition #1 shall include that the paint shall match the existing building; 2) Condition #7 shall be modified as follows: "Any changes..... Application #18-16 *unless minor changes are proposed and consistent with the intent of this approval may be approved by Planning Director.*"; 3) The removal of item (c) in Condition #4; 4) The addition of Condition #22 as follows: "The building permit application for the project must include legalization of the patio cover and must be obtained prior to the start of construction on the addition".

AYES: Gonzalez-Parber, Rodriguez, Chair Newton

NOES: Swift

ABSENT: Fragoso, Green, Kehrlein

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

2. 355 Scenic Road; Application #18-17

Request for a Use Permit, Setback and Height Variance to construct a 304 square-foot storage area beneath an existing 2 car garage on a site developed with a single-family dwelling; Assessor's Parcel No. 001-062-29; Residential Single-family RS-6 Zone District; Patrick Yore, applicant/owners; CEQA Categorically exempt per Section 15303(e).

Principal Planner Neal presented the staff report.

Commissioner Swift asked staff to address the requirement for fire sprinklers. Principal Planner Neal discussed the three triggers: 1) Substantial addition to the garage; 2) Its distance from the closest fire hydrant; 3) The narrowness of the road.

Commissioner Rodriguez asked how much grading would occur. Principal Planner Neal stated the applicant could address this question but she thought it would be a minimal amount (under two cubic yards).

Chair Newton opened the Public Hearing.

Mr. Patrick Yore, applicant, made the following comment:

- There is no need for grading underneath- it all tucks underneath the existing structure.

Chair Newton closed the Public Hearing.

Commissioner Swift provided the following comments:

- She has no problem with the application.
- She supports the application.

Commissioner Gonzalez-Parber provided the following comment:

- She could support the application.

Commissioner Rodriguez provided the following comment:

- She referred to the Resolution #2018-16, Condition #1, and asked if it should include language saying this shall not be a living area or bedroom.

Chair Newton provided the following comment:

- This is a storage room and not a living area.
- She would support the additional language to Condition #1.

M/s, Rodriguez/Gonzales-Parber, motion to adopt Resolution No. 2018-15 with the following modifications to Condition #1: "The use shall not be living space".

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

ABSENT: Fragoso, Green, Kehrlein

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

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

Chair Newton noted this item has been continued to the October 25th Special Meeting.

DISCUSSION ITEMS

There were no discussion items.

4. Minutes from the September 20, 2018 Planning Commission meeting

M/s, Swift/Gonzalez-Parber, motion to approve the September 20, 2018 Planning Commission minutes as corrected.

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

ABSENT: Fragoso, Green, Kehrlein

Planning Director's Report

Planning Director Berto reported the Election of the Chair and Vice Chair for the upcoming year will be on December's Regular Meeting agenda. He explained why each Commissioner should have a Town of Fairfax email address. Chair Newton added this would make it easier for the public to get in touch with a Commissioner. Planning Director Berto reported the Town Council took action with respect to the Tree Committee and created a Town appointed, at-large position in lieu of a Planning Commission representative. Commissioner Swift had a question about how the ordinance

addresses removals vs. alterations. Planning Director Berto responded that both are now included. Commissioner Rodriguez stated the Town, when reviewing an application, should get a report from an arborist as opposed to a company that performs tree removals. Planning Director Berto reported the upcoming Planning Commission Academy will be held in Long Beach on March 6th through the 8th, 2019. He briefly discussed the agenda for next week's Special Meeting.

Commissioner Comments and Requests

Commissioner Gonzalez-Parber asked about time limits on parking and why the Town chalks tires. Principal Planner Neal stated parking has been an on-going battle in Town.

Commissioner Swift referred to agenda item #3 and stated she was disappointed that they were not taking a holistic approach to cannabis regulations.

Commissioner Rodriguez reported the Planning Director's Association of the Bay Area is holding a one-day meeting on November 2nd in Oakland regarding the new USGS Hayward Fault study. It links well with the emergency preparedness issues the Commission has been discussing.

Commissioner Gonzalez-Parber had a question about an email from a resident and what was precluded, in terms of a response from a Commissioner, under the Brown Act. Planning Director Berto explained that the Brown Act was a very detailed document that comes down to a fundamental concept- the public's business should be conducted in public. There is also the notion of "appearance" in terms of a possible conflict. Commissioners need to refrain from formulating an opinion until they are at a public hearing and receive all pertinent information and testimony.

Commissioner Rodriguez asked staff to forward any information from Marin Telecommunications about anything they are doing with respect to 5G.

Chair Newton agreed with Commissioner Swift's request that the Commission take a holistic approach to the cannabis issue.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 8:50 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary