

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, DECEMBER 20, 2018

Call to Order/Roll Call:

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

Commissioners Present: Norma Fragoso
Esther Gonzalez-Parber
Laura Kehrlein (arrived 8:50 p.m.)
Mimi Newton (Chair)
Michele Rodriguez
Cindy Swift

Commissioners Absent: Philip Green

Staff Present: Ben Berto, Planning Director
Garrett Toy, Town Manager
Linda Neal, Principal Planner
Garrett Toy, Town Manager
Amanda Charne, Assistant Town Attorney

APPROVAL OF AGENDA

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

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

NOES: Rodriguez

ABSENT: Green, Kehrlein

Commissioner Rodriguez stated she voted no on approval of the agenda because she thought the Public Hearing items that involved resident's projects should be heard before the discussion items.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. Continued discussion/consideration of an ordinance to permit and regulate adult cannabis businesses in conformance with State Laws and Regulations pursuant to the Medical and Adult-Use Cannabis Regulations and Safety Act; Exempt from CEQA pursuant to Sections 15061(b)(3), 15301, 15305, and 15183 of the CEQA Guidelines as separate and independent bases.**

Chair Newton noted Commissioner Kehrlein was recusing herself from this item.

Town Manager Toy presented the staff report and gave a PowerPoint presentation.

Commissioner Fragoso stated she liked the San Rafael application process and asked if there was a time limit within which the Town must respond to a Business Permit application. Town Manager Toy stated some type of timeline would be created. Commissioner Fragoso stated she would like to see a more expanded application receipt and review process.

Commissioner Gonzalez-Parber asked for an explanation of the different business versus use permits. She asked if there could be a discretionary review process that would come before the Commission. Town Manager Toy stated "yes, if the Commission would like".

Commissioner Gonzalez-Parber asked for clarification on the Type N license for microbusinesses. Assistant Town Attorney Charne stated a Type N license is for infusions and allows for packaging and labeling. Commissioner Gonzalez-Parber asked if the Town could issue the microbusiness license but limit it to packaging and labeling. Assistant Town Attorney Charne stated that could create problems. Commissioner Gonzalez-Parber asked if someone could have a retail license and also a packaging and labeling permit at a separate location. Assistant Town Attorney Charne stated they could have more than one separate licenses but a retail license does not allow packaging.

Commissioner Gonzalez-Parber asked if staff has looked at templates for pre-application procedures available through the Bureau of Cannabis Control, the California Department of Public Health and the California Department of Food and Agriculture. Town Manager Toy stated staff would look into this.

Commissioner Swift asked if it was possible to require both a Conditional Use Permit and a Business License. Town Manager Toy questioned why to do this, and Planning Director Berto stated he would recommend against it. Staff might be able to come up with some type of hybrid approach.

Chair Newton referred to the staff report, page 8, item #8 and asked for clarification. She wanted to make sure they were not overlooking the idea that they need to revise the Town's Medical Ordinance. Town Manager Toy stated that was an oversight.

Chair Newton stated she would like to focus on the types and numbers of different uses before they start looking at the buffer zones and locations.

Chair Newton opened the Public Hearing.

Olivia made the following comments:

- She discussed the increase in vaping rates and the ease of accessibility.
- The California Healthy Kids survey reported there has been an increase in marijuana consumption by local youth.
- She asked the Commission to consider the impact to the youth when considering opening storefronts.

Mr. Jazzy Garrety, Park Road, made the following comments:

- The Philip Morris Company recently bought 35% of the Juul product- a \$13 billion deal.
- They also made a \$1.8 billion dollar investment in cannabis products.
- Big corporations own a lot of the products going into stores.
- The rate of marijuana use in Marin County went up last year.

Ms. Deb Nelson, Spruce Road, made the following comments:

- One important element has been left out of this discussion- the impact to the Police force.
- Black market trading has not decreased.

- She discussed some post-legalization statistics from the State of Colorado including an increase in cannabis related accidents, an increase in emergency department visits, and an increase in the number of calls to poison control.
- She initially supported two dispensaries but would like to see it limited to one.
- The 600-foot buffer zone should be honored.

Ms. Kelsey Fernandez made the following comments:

- She asked the Commission to not allow a cannabis storefront in Town.
- She is worried what it might bring- traffic, impaired driving, an increase in crime since they are a cash business.

Chair Newton closed the Public Hearing.

Chair Newton asked the Commission to begin with the number of businesses and the number and types of licenses the Town would be issuing.

Chair Newton provided the following comments:

- She referred to page 5 of the staff report, the last bullet, and stated she supported more flexibility and the idea that there could be three of each type of business - medical delivery, adult delivery, or storefront – or a business could apply for all three types of uses.
- They need to figure out where the delivery businesses could be located. She did not want to link them with the retail businesses.

Commissioner Swift provided the following comments:

- She asked if the Commission had made a decision on outdoor cultivation. Chair Newton stated “not yet”.
- She asked if different licenses had to have different locations. Assistant Town Attorney Charne stated retail sales can include medical and adult use and storefront retailers are permitted to do deliveries. State law requires no public and separate access for a delivery business.
- She would support two retail and one delivery business.

Commissioner Rodriguez provided the following comment:

- The Medical Marijuana Ordinance should be amended to allow one business. This would allow the existing business to continue to operate with its retail delivery.
- She supported one additional retail store front with delivery. The building size should be limited.
- There would be no additional delivery allowed beyond those two businesses.
- Deliveries should be allowed from outside the community.

Commissioner Fragoso provided the following comments:

- She supported one of each- one recreational delivery, one medical cannabis, and one retail.
- The retail should be limited in size.
- She asked if they could limit the ownership to a local small business rather than Philip Morris. Commissioner Swift stated the existing Medical Dispensary Ordinance talks about local ownership and no monopolies.
- She agreed with the delivery only license for the existing medical facility but would not want to see a retail storefront at that location. That business could have a retail location elsewhere.

Commissioner Gonzalez-Parber provided the following comments:

- She asked if a delivery business would need to have a physical address. Planning Director Berto stated “yes”. She wondered how realistic this would be outside the buffers.
- Nobody is going to apply for a license for medical- it will disappear.
- She supported allowing the existing medical license to have adult delivery only. She does not want an adult retail store at that location.
- She is not sure they need more than three cannabis businesses in Fairfax.

- She supported three delivery businesses.
- One business could hold licenses for three kinds of cannabis permits.

Chair Newton provided the following comments:

- She supported the maximum number of dispensaries that the Town would allow.
- She would like to see separate business licenses for each particular type of use- adult use retail, adult use delivery, and medical.
- An adult use retail store that also does delivery would count towards the three licenses for delivery.

Chair Newton asked the Commission to discuss locations and buffer zones.

Commissioner Fragoso provided the following comment:

- She would like to preserve the State buffer zones for retail

Commissioner Swift provided the following comments:

- She referred to retail and stated she would like to see restrictions in the size of the location.
- Delivery-only could have different parking requirements than a store front.
- She would remove the youth center buffer for a delivery business, and any buffer for a day care center.
- She would want to change the school buffer so the existing medical business is not included inside the buffer area.
- She would allow businesses in the CH, the CC, and the CL zones.

Commissioner Gonzalez-Parber provided the following comments:

- They should observe the 600-foot buffer zone and include parks.
- They need to protect wherever kids are. There aren't enough places for youth to gather and socialize. Baseball was there first.

Commissioner Fragoso and Rodriguez provided the following comment:

- They agreed with the buffer zones.

Chair Newton provided the following comments:

- She disagreed with the buffer zone- it should be eliminated for retail brick and mortar in the CC and CH zones.
- It is absurd to allow a bar in the downtown area but not a retail cannabis store.
- She supported eliminating the buffer zone for the CC and CH zones and was on the fence about the CL zone.

Commissioner Gonzales-Parber provided the following comments:

- There are differences between alcohol and cannabis, for example odor. Alcohol is confined to a bar, with cannabis you can walk through a cloud.
- Once approvals are given, they are hard to take away.

Commissioner Fragoso provided the following comment

- Bars have been here for a long time.

Chair Newton asked the Commission to discuss conditions in terms of locations, including parking and traffic.

Commissioner Swift provided the following comments:

- Facility size and parking go together and they should be regulated by the ordinance.

- Building size should be limited to 1,500 square feet or below, consistent with the medical marijuana regulations.
- There should be on-site parking requirements.
- She was fine with a first floor location but not supportive of a second floor location.

Commissioner Rodriguez provided the following comments:

- Building size should be limited to 800 to 1,000 square feet.
- They do not need to consider microbusiness or manufacturing. Limit it to packaging, with no flavoring.
- She agreed with all the staff recommended criteria except for "not allowing on Bolinas Avenue".
- Allowing businesses on the second floor is not important anymore
- On-site parking should be addressed as part of a delivery service. Delivery vehicles need designated parking.
- She was not concerned about parking, noting the Town had recently approved a restaurant expansion without parking.
- She is concerned about processing this through the Business License process versus a Use Permit. She wondered what the legal underpinnings were for a business license versus a use permit leading to closure

Commissioner Frago provided the following comments:

- She agreed that the location should not be limited to the second floor.
- She likes the Business License idea as it expires with a business, but would consider a Use Permit if it had the same controls and did not run with the land.
- 2,000 square feet is too big.
- If Fairfax is the only retail location in Marin then she feels strongly about the parking and the size.

Commissioner Gonzalez-Parber provided the following comments:

- Retail should be allowed in the CH, CC, and CL zones with the buffer zones.
- Parking should be required but site constraints should be a consideration. She was not sure if this should be controlled through the Variance process or if it would be administratively approved.
- Traffic impacts need to be looked at.
- She agreed that there should be a limit on the square footage.
- They need to look at the security issues with respect to the amount of cash on-site.
- She supported the second story location.

Chair Newton provided the following comment:

- She likes the idea of requiring on-site parking for both retail and delivery. There should be different parking requirements for retail and delivery only.
- They should allow a broader permitted location for the businesses.
- Buffer zones and restrictions would regulate this type of business out of the Town.
- She does not have a strong preference about the size limitations.
- She is not interested in limiting to a particular floor.
- She is in favor of allowing in the CC and CH zones and is on the fence about the CL zone

Chair Newton asked the Commission to discuss cultivation.

Commissioner Swift provided the following comments:

- She supported six plants outdoors.
- She supported six plants per parcel for multi-family/duplexes.
- She supported the current Medical marijuana cultivation regulations for personal use.
- No plants on balconies.

Commissioner Rodriguez provided the following comments:

- She agreed with Commissioner Swift.
- In addition, there should be a full-time residential occupancy requirement- the residential component should be the primary use.
- Rented residential properties should not be used for cultivation purposes without consent of the property owner. Fan noise should be considered.
- Any facility built associated with this use should be legally constructed to code.

Commissioner Fragoso provided the following comment:

- She asked if allowing 6 plants precludes the owner of a multifamily/duplex disallowing cultivation. Planning Director Berto stated “no”, but we might want to clarify this in our regulations.

Commissioner Gonzales-Parber provided the following comments:

- She was grateful for the survey.
- Six plants per property is fine.
- It should not be a problem for multi-family units but she was not sure how to define the limits.
- She is ok with balconies as long as they are screened.
- She agreed with the comments made by Commissioners Swift and Rodriguez.

Chair Newton provided the following comments:

- She agreed with the comments about full-time residential occupancy, the existing outdoor standards, making sure all structures are up to code.
- She is in favor of allowing six indoor or outdoor per residence or unit.
- She is not in favor of a buffer on parcels within certain distances from schools or day-cares.
- She was ok with cultivation on balconies but the area should be screened.

Planning Director Berto stated staff would start to work on the code and where there does not seem to be a consensus they will list the divergence of opinions. This would come back to the Commission and then the Council.

The Commissioner took a 10-minute break at 8:50 p.m.

Commissioner Kehrlein arrived and took her seat at the dais.

2. 407 Cascade Drive; Application #18-21

Request for a Design Review Permit and Use Permit for a new 2-story, 3-bedroom, 2 ½ bath, 2,255 square-foot residence with an attached 500 square-foot garage on a level 6,362 square-foot vacant lot. Application has been redesigned to reduce total square footage 200 square feet from the previous 2,425 square foot residence and 530 square foot garage. The maximum height of the building has also been reduced by 1 foot 9 inches, from 28 feet six inches to 26 feet 9 inches. Continued from November 20, 2018 Planning Commission meeting. Assessor’s Parcel #003-044-09, Residential R6 Zone District; Shawn and Allison Madden, owners/applicants; CEQA categorically exempt per Section 15301.

Planning Director Berto presented the staff report. He stated the redesign reduces the size of the structure by 200 square feet, adds articulation to the front of the building by creating a two-gable view from the street frontage, reduces the building in width, and reduces the size of the deck in the rear property. He discussed the three actions the Commission could take.

Commissioner Swift had a question about the setbacks. Planning Director Berto stated the applicants could provide clarification.

Chair Newton referred to Resolution No. 2018-22, page 2, the first "Whereas" and asked if the December 7th plans included the amendments referred to in #2. Planning Director Berto stated 2a. is a change from their plans and 2b. and 2c. are shown on their plans.

Chair Newton opened the Public Hearing.

Mr. Allison Madden, owner, made the following comment:

- She thanked staff for their guidance.
- The revisions are above and beyond what the staff report recommended in November.
- There were three main items they addressed from the November staff report: 1) Massing and articulation; 2) The height of the front portion of the building; 3) The addition of a native tree.
- They dropped the ridge at the front portion of the house over the garage 4½ feet; they took the roof off the front porch decreasing themassing and increasing the articulation of the house; they took the rest of the ridgeline down 1-foot 9-inches; they substantially redesigned the landscaping; they pulled the back end of the rear deck in by almost four feet and dropped it down.
- The staff report calls for an additional reduction of one foot- this is very inconsistent with the previous direction.
- The new design provides more privacy on all sides.
- They have received several letters in support.

Mr. Shawn Madden, owner, made the following comments:

- He gave a PowerPoint presentation about the history of the property.
- They are proposing a Floor Area Ratio (FAR) of 0.35.
- They are proposing a standard home that is well within the guidelines established by the Town and consistent with the General Plan.
- They demolished the previous residential structure on the site due to life/safety conditions.

Mr. Jason Alden, architect, made the following comments:

- They narrowed the width by one foot on the side facing the west.
- They removed one foot on the upper floor and pulled it back three feet from the rear.
- A total of 200 square feet has been removed from the project.
- The master deck in the rear has been reduced by 50% (in terms of usable space).
- The mass of the street front elevation has been reduced.
- There will be more planting in the front.
- He displayed a sun study and stated the project would have minimal impacts to the neighbors.
- There will be no crawl space venting or venting in the attic- it is all part of the conditioned space.

Chair Newton closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- Her position has not changed.
- The project is too large in size, scale, and mass. Removal of only 200 square feet is not adequate.
- The majority of the square footage is on the second floor.
- The project is not integrated into the neighborhood.
- Her recommendation would be denial.

Commissioner Swift provided the following comments:

- She was not present at the last meeting but reviewed the tape and all relevant documents.
- The applicants have addressed the privacy and visual impacts.
- They reduced the height and width of the building, the rear yard setback has been increased, they have articulated the front design, they changed the back deck, they reduced the depth of the second floor.

- She appreciates the efforts that have been made- this is a better overall design.
- She did not agree with the suggestion to reduce the height by one foot (to 25 feet, 9 inches).
- She could approve the application.

Commissioner Fragoso provided the following comments:

- She appreciated the redesign- it integrates better into the community.
- It is high and massive on the eastern side.
- She is concerned about the relationship with the one-story house on the eastern side. She acknowledged there is agreement on the west side.

Commissioner Gonzalez-Parber provided the following comments:

- She appreciates the efforts made to improve the design but she wanted to see more.
- The view of the project from the street is much better.
- The house to the east looks dwarfed because of the massing of the project.
- She agreed with the staff recommendation to step the east side of the second floor.
- It would be nice to see another two feet reduction either on the whole thing or just the top.
- She cannot approve the project as presented and recommended a continuance.

Commissioner Kehrlein provided the following comments:

- The applicants have spent a lot of time on the project.
- She considers this an infill project on a previously developed lot that meets all the zoning regulations.
- She is fine with the size and height of the home.
- She has concerns about the landscape plan- it was difficult to read since common names were not used and there was no indication of the height of the plants.
- There is not enough contrast in the color palette- the white might be too bright. She would like to see actual color samples.

Chair Newton provided the following comments:

- She appreciates the efforts made to reduce the size, size of the garage, the height, the width, the setbacks, the depth, the rear deck size, and to increase the articulation.
- She is in favor of requesting that the maximum height be reduced by one foot to a maximum of 25 feet, 9 inches.
- She could approve the application as proposed except for the height issue.
- She wondered how they would move forward with such a variety of opinions and asked if they had time to ask the applicant to resubmit in terms of the Permit Streamline Act. Planning Director Berto stated every time there is a substantial change in a project it resets the clock.

Chair Newton reopened the Public Hearing.

Ms. Allison Madden, owner, made the following comments:

- They have made six attempts to contact the neighbor to the east. He has not responded.
- They would be willing to change the color and address landscaping issues.
- She would talk to her architect to see where the height could be reduced.

Chair Newton closed the Public Hearing.

Commissioner Gonzalez-Parber provided the following comments:

- Modification does not necessarily have to be made to the height- there needs to be more of a buffer between this structure and the one to the east. She agreed with the staff recommendation to drop it down a foot.
- The application is "almost there".

Commissioner Swift provided the following comments:

- The applicants responded to the comments from the first meeting and made changes beyond what they were asked to address.
- The Commission should be specific in its request to the applicants if they decide on a continuance.

Commissioner Rodriguez made a motion to deny the application. There was no second.

Commissioner Swift made a motion to approve the application as presented. There was no second.

M/s, Gonzalez-Parber/Kehrlein, move to continue this application and ask the applicants to reduce the height by one foot at least, provide more information on the site plan, the landscaping, the color palette.

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

NOES: Rodriguez, Swift,

ABSENT: Green

3. Resolution transmitting the Planning Commission's comments on the Ordinance consolidating Titles 19 and 20 of the Fairfax Municipal Code relating to Telecommunications Facilities establishing comprehensive regulations for wireless telecommunications facilities in Town, including standards, application requirements, permitting process and location and configuration preferences; CEQA exempt, section 15050(c)(2), 15378, 15061(b)(3), 15303 and 15305.

Town Manager Toy presented the staff report.

Chair Newton opened the Public Hearing.

Mr. Andy Peri, Cypress Drive, made the following comments:

- He cited the headings in Title 19 and stated many of the sections refer to other Town sections- he would like to know where they exist in the new Title 19.
- He wants to make sure nothing in the old Title 19 has been lost.
- These two titles should be separate.

Mr. John Snell made the following comments:

- He discussed the issues surrounding locations and configurations of 5G.
- As the distance from a cell tower increases the microwave transmitter in a cell phone increases its radiation power.
- To reduce the amount of electromagnetic radiation from a cell phone the setback distance to a 5G cell must be reduced rather than increased.
- In return for reducing distance setbacks the configuration power of each cell microwave transmitter must be limited.

Ms. Roberta Anthes, Snowden Lane, made the following comments:

- The exceptions chapter is too non-specific to be strong.
- She did not find any language that constitutes proof for the viability of a claim- this is vital in holding applicants accountable.
- They should keep Title 19 as is.
- Title 19 refers back to Title 13- they need all those protections.

Ms. Jess Lerner made the following comments:

- She has serious concerns about combining the two chapters. This is a losing strategy.
- She was concerned something would get lost.
- The most elegant approach would be two, standalone ordinances.

- She discussed privacy and security issues- wireless technology is less secure and can be easily hacked.

Ms. Vicki Seavers, EMF Safety Network, made the following comments:

- She discussed the process that occurred in San Rafael and stated they kept its existing ordinance completely intact and drafted a standalone document to address small cell equipment.
- She asked the Commission to incorporate buffers around schools and day care centers.

Mr. Richard Applebaum, Wood Lane, made the following comments:

- He agreed with the other comments.
- He would like to retain Title 13, 19, and create a new 20.
- He was concerned about hacking and privacy issues.
- He stated there should be a 24-hour monitoring system.

Ms. Valerie Hood, Fairfax, made the following comments:

- She is concerned about fire risk, Town liability for unregulated poles, lack of insurance, that Title 13 and 19 remain standalones, the interface between Town staff and realtors.
- She asked if staff has prepared a written detailed plan of how to manage the wireless facilities permit data once applications are received and processed. MarinMaps should be used.
- Shot-clocks cut both ways.

Ms. Linda Hedsel made the following comments:

- She referred to Attachment #2, Summary of the Planning Commissions Comments, bullet point #2, and stated the wording "if feasible" should be removed.
- She recommended highlighting the requirement for undergrounding in underground districts.
- She was concerned about consolidating the two titles since it could inadvertently omit key protections.
- The Exceptions Provision should be beefed up.
- Reduce the permit expiration to less than 10 years.

Ms. Mallory Geidheim, Willow Avenue, made the following comments:

- She has been to a lot of meetings and nobody is in favor of this.
- The risks outweigh the benefits.
- The difference in speed in 4G to 5G is not that great.

Ms. Kathleen Boggs, San Anselmo, made the following comment:

- These facilities should be kept away from schools kids.

Mr. Frank Egger, Meadow Way, made the following comments:

- He discussed the historical significance of Chapter 13 and Chapter 19.
- Chapter 13 mandates underground utilities in a downtown area. It included exceptions.
- The Council directed staff to keep Chapter 19 intact and to create a new standalone Chapter 20.
- The consolidated ordinance is a blueprint for approving 5G cell.
- Chapters 19 and 20 should not be consolidated.
- Fire issues are real.

Lauren, Fairfax, made the following comment:

- She is very scared of 5G.
- This is a big "NO".

Chair Newton closed the Public Hearing.

Commissioner Swift asked how the underground utility districts fit into Title 19. Town Manager Toy stated there were six districts in the commercial zones. Wireless facilities need above ground antenna. Commissioner Swift noted the draft changes do not reference these districts.

Commissioner Swift provided the following comments:

- She referred to Attachment #2, "Summary of Planning Commission Comments", bullet #2 and stated "if feasible" should be defined; bullet #5 and stated applicants should provide staff with a public noticing for the Town Website; bullet #9 and stated a time limit should be established.
- She stated she would provide staff with more detail that provides context to the bullet point statements.

Commissioner Kehrlein provided the following comments:

- She asked if the Town could limit the height of the antenna- they should not exceed the height of the existing structures.
- They should be prohibited on the downtown decorative light poles.
- She had questions about the application process (Use Permit and Design Review vs. Zoning Administrator review).

Commissioner Gonzalez-Parber provided the following comment:

- She had a question about adding more restrictions and asked if the underground districts were seismically up to code. Town Manager Toy stated it was a vault that is underground.

Commissioner Rodriguez provided the following comments:

- There should be two separate ordinances if there is a concern about lost information.
- She would like to see more in the ordinance about EMF sensitivity.
- The definition about modification of these systems should include software changes and upgrades.
- The substantial changes should be reduced from the 20 feet down to 2 feet.
- Substantial changes should include height changes and changes to noise, light, and EMF.
- There should be land use buffers and more limitations on the zoning districts.
- They should incorporate the San Anselmo exceptions.
- She liked the idea of adding data safety, annual recertification, and a preference for undergrounding as Conditions of Approval.
- She liked the recommendation for a reduced number of years for approval.
- They should look at CEQA more closely in terms of adding a substantial change section with respect to a variety of colocations.

Commissioner Frago provided the following comment:

- She agreed with the comments made by Commissioner Kehrlein and Rodriguez.

Chair Newton provided the following comment:

- She agreed with a lot of what has been said.
- The two titles should be kept separate.
- She would like to look at the San Anselmo exceptions.
- She would like to limit the maximum time for an extension.
- It is important to ensure that the application process be transparent and allow for individuals with particular sensitivities to participate in the decision making in terms of particular locations
- The 24th bullet should read "minimum" and not "minimal".

Commissioner Swift provided the following comments:

- If the staff feels the titles should be combined then it would be helpful to see a "walk-through" (red-line) between the old and the new.
- She had a question about the title of the resolution. Town Manager Toy noted the "Now, Therefore" section was the important part of the resolution.

Commissioner Rodriguez provided the following comment:

- This should be brought to the Council for review and comment and then return to the Commission for a final review.

Chair Newton provided the following comment:

- She is concerned about the burden on staff- being able to turn things around in order to get the information to the Council in February.
- She typically did not want to give the Council something this amorphous.
- Putting it off might not be that much more efficient.

M/s, Fragoso/Swift, Move to adopt Resolution No 2018-18 recommending the Council: a) strongly review and consider the Planning Commission's comments from the November 29th and December 20th meeting which offered modifying and clarifying comments to the previous comments and direct staff to revise the proposed ordinance as Council deems appropriate and b) after the Council's consideration and discussion of the Planning Commission's comments, adopt the ordinance. Commissioner Rodriguez written comments to staff will be incorporated.

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

ABSENT: Green

4. 6 Fawn Ridge Road; Application #18-22

Request for a Ridgeline Scenic Corridor Permit for a 924 square-foot rood deck addition to an existing single-family residence that has been issued a permit for a remodel and an Accessory Dwelling Unit; Assessor's Parcel No. 002-052-10; Residential Single-family RS-6 Zone District; Rich Rushton, architect/applicant; Elliott Fisher and Nancy Cochran, owners; CEQA categorically exempt, 15301(e)

Commissioner Gonzalez-Parber recused herself since she lives near the subject property

Principal Planner Neal presented the staff report.

Commissioner Fragoso stated she was confused with the drawings- she sees a sketch of the fence that goes to the edge of the roofline. Principal Planner Neal stated it does go to the edge of one side but does not project to the edge closest to the nearest neighbor. Commissioner Fragoso asked if the structure depicted in the sketch was a chimney. Principal Planner Neal stated "yes".

Commissioner Swift asked how the ordinance addresses the impacts in Significant View Corridors. Planning Director Neal stated the ordinance is somewhat vague but the intent is to try to preserve the view of ridgelines from areas of gathering places for the Town, such as the ballfield, the Parkade, etc. The ordinance gives the Commission the authority to define these corridors.

Chair Newton opened the Public Hearing.

Mr. Art Chartock, architect, made the following comments:

- He did not know if the solar panels would be replaced. They are hot water collectors.
- The pool has a separate heater (not solar).

Chair Newton closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- The project site is on a sensitive location and can be seen by properties across the valley.
- The vertical and horizontal railing should be made of wood and not steel tube. The steel cable systems could remain.
- The selection of building materials should represent a rural area.

Commissioner Fragoso provided the following comments:

- She agreed with Commissioner Rodriguez.
- The building itself does not stand out but the proposed railing would be seen from a distance (it would be shiny).
- She referred to the photograph depicting the solar panels and asked if that rooftop would need to be modified. Principal Planner Neal stated "yes".
- She asked if the wooden trellis would remain. Principal Planner Neal stated she did not know.
- She appreciated the Dark Sky downlights.
- She could approve the application.

Commissioner Kehrlein provided the following comments:

- She liked the modern design.
- She suggested a darker color for the railing. They could work with staff to come up with a non-reflective material.

M/s, Rodriguez/Fragoso, motion to adopt Resolution No. 2018-23 with the following modification to Condition #1: "The railing on the deck shall not be reflective and shall be at the Planning Director's discretion".

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

ABSENT: Green

RECUSED: Gonzalez-Parber

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

The Commission took a break at 11:30 p.m.

Commissioner Gonzales-Parber took her seat at the dais.

- 5. Continued consideration of a draft Ordinance amending the text of the Fairfax Zoning Ordinance, Town Code Title 17, Chapter 17.112, PDD Planned Development District Zone, pertaining to development standards and submittal procedures; CEQA exempt, sections 15305 and 15183. Assessor's Parcel Numbers 001-160-01, 02 and 03, 001-183-18, 001-271-14 and 16, 174-050-60, 174-060-21 and 25, 174-111-all parcels, 174-112-all parcels and 174-060-15, 23 and 24.**

Planning Director Berto presented the staff report.

Commissioner Rodriguez referred to Exhibit A and asked if the reference to maximum residential density was "gross" or "net" acreage. Planning Director Berto stated it was gross.

Commissioner Swift stated she would like more information on the location of the current PDD Zones and their current conditions. She referred to the chart on page 5 of the staff report and asked what the density would be for anything lower than a 10% slope. Planning Director Berto stated that circumstance would not be affected by the proposed amendment, but would be subject to other reviews, including Housing Element requirements.

Chair Newton opened the Public Hearing.

Mr. Frank Egger, Meadow Way, made the following comments:

- This new ordinance is a roll back of protections in the current PDD Zones.
- The agenda should identify the properties- parcel numbers are insufficient.
- The purpose of this revision is to allow current open spaces and ridgetops to be developed.
- All PDD parcels are fully developed according to Fairfax laws and approved Precise Plans of record.
- There is no reason to amend or rezone these properties.

Ms. Susan Pascal-Berand, representing the Oak Manor Homeowners Association, made the following comments:

- She asked about the location of several of the properties.
- Fairfax's open space is extraordinary- it should be valued.
- They need to use objective standards to retain control.

Ms. Debra Benson, Cascade Drive, made the following comment:

- The community values open space.
- There should be deals guaranteeing access to open space in perpetuity for Oak Manor, St. Rita's, Meadowlands, and Canyon Village.

Ms. Richard Applebaum made the following comments:

- There seems to be a lack on "institutional memory" and continuity.
- He would like to see more dialogue.
- Public input was important.

Ms. Mallory Geidheim, Willow Avenue, made the following comments:

- She did not want to see any zoning changes or high density.
- These important issues should not be heard at midnight.

Lauren made the following comments:

- She has lived in Fairfax her whole life and has accepted that more people are moving in.
- She did not want to see more density or hilltops filled with houses.

Chair Newton closed the Public Hearing.

Chair Newton provided the following comments:

- She sees the motivation of this effort as a protection of open space.
- She is glad they are not getting into Phase 2- they need to slow down and get a more strategic perspective.
- She did not see how the suggested changes to the slope and maximum residential density would create more density.

Commissioner Rodriguez provided the following comments:

- She referred to Exhibit A3, Chapter 17.112, Section .030 "General Standards and Requirements" (A) (1), and asked for clarification. Planning Director Berto stated the parcel size has to be five acres and the density is established through review.
- She asked if the chart would increase the intensity of the General Plan density ranges. Planning Director Berto stated staff would need to check to see if there was any impact.

Commissioner Fragoso provided the following comment:

- The intent of staff's proposed action is not to maximize but to limit the extent of development on sloped parcels.

Commissioner Gonzalez-Parber provided the following comment:

- She asked if institutional protections would govern the new State laws. Planning Director Berto stated "yes".

Commissioner Rodriguez provided the following comment:

- She asked if PDD Zone property owners received a notice of this meeting. Principle Planner Neal stated "yes".

Chair Newton provided the following comment:

- She noted a minor edit to the third “Whereas” in Resolution No. 2018-24.

M/s, Fragoso/Gonzalez-Parber, motion to adopt Resolution No. 2018-24 (Attachment B) and recommend Council adopt Ordinance No XX (Attachment 1 to B) with the edit suggested by Chair Newton.

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

NOES: Rodriguez

ABSENT: Green

Discussion Items

There were no discussion items.

6. Minutes from the October 18, November 15, and November 29, 2018 meetings.

M/s, Swift/Gonzalez-Parber, motion to approve the October 18, 2018 minutes as corrected.

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

ABSTAIN: Fragoso, Kehrlein

ABSENT: Green

M/s, Fragoso/Gonzalez-Parber, motion to approve the November 15, 2018 minutes as corrected.

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

ABSTAIN: Kehrlein, Swift

ABSENT: Green

M/s, Fragoso/Swift, motion to approve the November 29, 2018 minutes as corrected.

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

ABSTAIN: Kehrlein

ABSENT: Green

Election of New Chair and Vice Chair

It was the consensus of the Commission to continue the election of the Vice-Chair.

M/s, Newton/Gonzalez-Parber, motion to elect Commissioner Swift as Chair.

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

ABSENT: Green

The Commission thanked Chair Newton for her year of leadership.

Planning Director’s Report

Planning Director Berto reported on items for consideration at the January Commission meeting and noted the Commission might need to hold a Special Meeting.

Commissioner Comments and Requests

Commissioner Rodriguez urged the Commission to attend the American Planning Associations National Conference in San Francisco in January. She will email the schedule.

Commissioner Swift reported she attended the 35th Annual Planning Commissioners Conference at Sonoma State University. She will send the Commission a link on the presentations. She asked staff if the Commission could look at priorities in January, including Historic Review.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:55 a.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary