

Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, January 21, 2016

Call to Order/Roll Call

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

COMMISSIONERS PRESENT: Bruce Ackerman
Norma Fragoso
Esther Gonzalez-Parber
Philip Green (Chair)
Shelley Hamilton
Laura Kehrlein (Vice-Chair)
Mimi Newton

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Principal Planner
Joanne O'Hehir, Minutes Secretary

APPROVAL OF AGENDA

M/s, Newton/Gonzalez-Parber, Motion to approve the agenda:

AYES: All

ELECTION OF A NEW CHAIR AND VICE CHAIR

M/s, Hamilton/Gonzalez-Parber, Motion to approve Vice-Chair Kehrlein as Chair:

AYES: All

M/s, Gonzalez-Parber/Hamilton, Motion to approve Commissioner Fragoso as Vice-Chair:

AYES: All

Commissioner Green made a statement about the availability of information on water conservation and flood preparedness on a table close to the entrance. Commissioner Green said that a presentation will be made at the next meeting in February by Marin Resources Conservation District regarding creek maintenance and rainwater capture.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No one came forward to speak.

CONSENT CALENDAR

1. **85 Bolinas Road; Application # 16-0:** Request for approval of a fence around the landscaping areas of the existing Commercial buildings; Assessor's Parcel No. 002-122-26, 27 and 28; Central Commercial CC Zone District; Peter Strober, applicant/owner; CEQA categorically exempt, § 15303(e).

In response to Chair Kehrlein, Principal Planner Neal confirmed that the proposed project does not affect the redwood trees.

2. **46 Westbrae Avenue; Application # 16-02;** *recommended for continuance to the February 18, 2016, Planning Commission Meeting;* Request for a Residential Second Unit Use permit to construct a 452-square-foot, residential second-living unit over an existing garage that is attached to a 1,725-square-foot, single-family residence; Assessor's Parcel No. 001-271-04; Residential Single-family RS 6 Zone District; Kristin Tiernan, Designer; Micolyn Magee, owner; CEQA categorically exempt, §15301(e)(2) and 15303(a).

Mr. Moore noted that there is a request to continue the project at 46 Westbrae Avenue to the meeting of February 18th if the Consent Calendar is approved.

Chair Kehrlein opened the public comment period and a member of the public commented on the item at 85 Bolinas road, noting that the plans do not affect the redwood trees.

M/s Fragoso/Hamilton, Motion to approve the Consent Calendar:

AYES: All

Chair Kehrlein read the appeal rights.

PUBLIC HEARING ITEM(S) – None

DISCUSSION ITEM(S)

3. Presentation by the owner of the Wall Property on a potential future project submittal. The property owner will present a revised vision for the use of the property (his original vision was presented at an October 22, 2015, Planning Commission workshop meeting). The purpose of this discussion item is to provide an opportunity for an informal ‘community-discussion’ with the property owner; Assessor’s Parcel Numbers 001-150-12, 001-171-51, 001-251-31 and 002-160-09; Marshal Rothman, property owner.

Planning Director Moore provided background information on the discussion, and he confirmed that a formal application has not been submitted. Mr. Moore noted that the discussions are an effort to inform the public of Mr. Rothman’s plans and to provide an opportunity for the public and commissioners to provide feedback before the formal process begins.

Marshal Rothman, managing partner of the owners of the Wall property, provided an update on his project following the previous meeting. He said they no longer plan to include second units on the lots. He also discussed the concerns raised about landslides that relate to two of the lots and the proposal for relocating the dwellings. Mr. Rothman said that they will need to create an easement for access to the lot on the east side, which he identified on a slide presentation in response to Vice-Chair Fragoso.

Mr. Rothman discussed the main parcel of 84 acres. He said they had raised the possibility of a subdivision, which would require a General Plan amendment, and so they have revised their plans. Mr. Rothman said that, if they remain within the current zoning requirements of 10 acres per parcel, the dwellings would be placed in locations that would utilize the existing roads and pads, rather than needing to cut driveways. He said they could hide the houses and that the proposed design would minimize impacts and the costs. Mr. Rothman said they aim to preserve 90% of the property and provide public access, which he discussed. He noted that they wish to donate 4.65 acres to the Town to create an open space parcel for people to enjoy, including the Spirit Pad, and he discussed the trails that would be preserved for public use.

In conclusion, Mr. Rothman discussed an option to sell part of their property to the Town for \$3,000,000.

Mr. Moore discussed the map slide of Mr. Rothman’s property to provide a synopsis of the proposed plans. He discussed the two lots that will remain independent of the remaining lot of 84 acres, which he said would be subdivided into eight 10-acre lots with access from Marinda Drive. Mr. Moore said that each lot will reach the ridge and that public access to the ridge will be maintained. Mr. Moore confirmed that Mr. Rothman believes the dwellings, for the most part, will not be seen; that they are not pursuing second units on each of the properties, and that they would consider selling the 84-acre site for \$3,000,000 providing it is not to another developer.

In response to Commissioner Newton, who questioned the size of the main parcel once the two separate lots are separated, Mr. Rothman said he would confirm the size of the main parcel with his surveyor. Commissioner Newton discussed her concerns that the 10-acre lots will be fenced in, and suggested the dwellings might be sold on smaller parcels. In response, Mr. Rothman suggested restrictions to make the remainder of the parcels non-developable and unfenced.

In response to Commissioner Hamilton, Mr. Rothman said they would need to increase the size of the dwellings because they are foregoing the second units.

Commissioner Hamilton and Mr. Rothman discussed the location of the buildings. Mr. Rothman confirmed they were no longer clustering the lots and that they now plan to build 8 dwellings on the 84 acres. They also discussed the development in relation to the Ridgeline Ordinance. Mr. Rothman said their sites are large and that the dwellings will be pushed into the hillside, so that they are not visible. He said that landscaping could be used for additional screening and he confirmed that they will submit a complete package, which he discussed.

In response to Commissioner Gonzalez-Parber, Mr. Rothman discussed the existing pads, noting that they would not be using all of them. He discussed the timeline for the application process.

In response to Chair Kehrlein, Mr. Rothman discussed the reasons they have disregarded the original design of “clustering” the dwellings. He said that they can develop the parcels within the current zoning rules and no longer need a General Plan amendment.

In response to Commissioner Green, Mr. Rothman said that a deed restriction and/or conservation easement will prevent homeowners from undertaking additional building on their 10 acre lots.

Mr. Rothman and Commissioner Ackerman discussed the parcel that Mr. Rothman would be prepared to sell to a buyer who is not a developer.

In response to Commissioner Newton, Mr. Moore clarified which parcel and the amount of acreage that Mr. Rothman said he would be prepared to sell or else subdivide into 8 developable lots and build a dwelling on each parcel.

Chair Kehrlein opened the public comment period:

A speaker requested clarification on what the UR-10 zoning code would allow to be built on the property. In response, Mr. Moore noted that the code allows for a minimum of 10-acre lots and he explained the process that would allow the applicant to subdivide the 84-acre lot. Mr. Rothman used the map that was exhibited as a slide to show where the dwellings will be built.

Liz Froneberger, San Gabriel Drive, discussed her concerns about drainage and the Ridgeway landslide that occurred. She said all the houses at the end of San Gabriel Drive, including her own, have been impacted by mud and that development will affect drainage in the area. Ms. Froneberger asked that any studies undertaken are through and that the land is not disrupted. She said the area is unstable.

Helen Strodl, 95 Chester, referred to a parcel of land that was not highlighted on the map and inquired of its owner. In response, Mr. Rothman said he did not own the parcel.

Jessica Green, Ridgeway, asked why the applicant is being allowed larger parcels, when she had been under the impression that approval had been granted for smaller parcels. In response, Mr. Moore noted that the applicant has not been granted approval for any development and he discussed the zoning requirements. Ms. Green asked if the path leading to Oak Springs will remain available for public use and Mr. Rothman said that the path is not on his property.

Barbara Cedarblade, 116 San Gabriel Drive, said that she echoes Liz Froneberger’s comments with regard to land instability between the end of San Gabriel and Oak Springs. She discussed the problems they have experienced with mud in their yard and earth movements. Ms. Cedarblade confirmed her belief that the hill is unstable.

Chris Bertocchipage, 84 Chester, asked for clarification on the plans for the spirit circle, the story polls and pads that are visible, and she asked for more information on a separate parcel of land that has been discussed, although it is not part of the presentation or included on the map.

Jane Richardson Mack, 49 Madrone, said it would be helpful to see where the dwellings will be sited on the parcels. Ms. Richardson Mack said she wished the property could be bought and remain in its wild state and that the proposal is a calamity for nature, which she discussed.

A resident at 3 Rocca Drive asked the applicant about the 16-acre parcel that is not included in the discussions. In response, Mr. Rothman said that development of that property would be submitted under a different application. She asked how much cement they anticipate using and how long the offer to sell the land for \$3,000,000 remains open.

Philip Benson, San Gabriel Drive, said he agrees with the comments made by Liz Froneberger that the entire area of Ridgeline is unstable, and he discussed the previous mudslide. He asked that consideration is given to drainage issues if the property is developed.

Judy Hitchcock, 90 Chester, expressed her confusion by the map and sought clarification of plans to turn the fire road into a street. In response, Mr. Rothman said that there is a parcel adjacent to the existing road and that they will need to pave a section of the fire road to gain access to the parcel.

Emily Vaughn, new resident, asked if clearer documentation and a more easily understood map could be provided at the next meeting.

A resident of 78 San Gabriel Drive discussed her concerns that residents will not be able to access their properties due to construction vehicles.

Frank Egger, Meadow Way, said that the 16-acre parcel and its access road should have been shown on the map. He asked if the remaining acres will be sold as empty lots or if they will be developed before being sold. Mr. Egger also asked if access to the properties could be explained.

Scott Hochstrasser, 141 Bolinas Road, said the subdivision map is contorted, which he discussed in relation to the Zoning Ordinance. He said he appreciates the applicant trying to cluster the houses along the lower part of the road and that he believes the applicant has good intentions to work within the density proposed. However, Mr. Hochstrasser said the proposed plan is confusing and he advises the Town to revise the Zoning Ordinance so that Mr. Rothman could consider a similar plan, perhaps with a smaller cluster of residential units, leaving the remainder of the land as open space.

Bernie Chapman, 261 Marinda Drive, asked how the funds could be found to buy the property and he commented on the mudslides that have occurred in the area.

David Weinsoff, 161 Ridgeway, discussed the fence that has been erected which adjoins his property. Mr. Weinsoff said that the original owner cared for the land and hauled out trash left by others. He said the new owner did leave it open for the neighborhood to use, but that there have been fires and raucousness with strewn beer cans on the property. Mr. Weinsoff said there is a need to understand the difference between private and public property.

Mr. Rothman discussed the issues of homeless encampments and the lack of respect for private property. He discussed the reason why his property should not attract such people.

In response to a speaker, Mr. Rothman said that the sites are stable, the pads are in areas already denuded and they will only be constructing single-story dwellings. Thus, Mr. Rothman said he did not believe they would use a lot of concrete in comparison to building on a hillside. He discussed the trails that will not be impacted by construction and the road leading to the Ridgeway Trail, which he noted is town maintained and which will be used.

Mr. Rothman addressed the mudslides, noting that drainage improvements have been made. He said that engineers have studied the land and there no longer appears to be evidence of erosion or mudslides, and he noted there will be no construction on that land.

Mr. Rothman discussed the subdivision and said he did not believe the parcel has been subdivided in an unusual way. He confirmed that he will add the parcel that is not shown on the map in time for the next meeting, and will provide further information.

Mr. Rothman said they intend to build on the lots, and he used slides to identify where the dwellings will be placed. He discussed their intent to ensure no further development of the lots can take place once the dwellings have been built.

In response to Mr. Moore, Mr. Rothman confirmed that they will develop the lots, rather than sell them undeveloped for financial reasons.

Commissioner Hamilton asked staff to clarify the applications that will be submitted and the reason why they will not be submitted under a single application.

In response, Mr. Moore said it is the Applicant's prerogative to choose how their applications are submitted and Mr. Rothman said that the other two parcels are already subdivided, which he discussed.

Mr. Moore noted that that the Town has granted Conditional Certificates of Compliance for 10 different lots, which he discussed.

Commissioner Green suggested Mr. Rothman use MarinMap to construct a parcel map, and he requested the materials that have been provided to the public.

In response to Commissioner Newton, Mr. Rothman confirmed the properties will be used for residential purposes and not for commercial enterprises.

In response to Commissioner Hamilton, who asked where responsibility would lie with the landslide area if the property is sold, Mr. Moore noted that liabilities are transferred to the new owner when property is sold. Mr. Rothman added his comments.

Chair Kehrlein asked Mr. Moore to explain the pros and cons of the possibility of gaining a larger open space element by a rezoning process to create smaller, developable parcels. In response, Mr. Moore said that Mr. Rothman is considering creating an open space easement for the majority of the properties, but that there are certain properties the town does not want to assume liability for because of the slides, which he discussed.

Commissioner Hamilton suggested changes to the map that should make it easier for people to understand, highlighting the areas that will remain undeveloped.

Mr. Moore suggested another meeting is conducted, which he discussed.

Commissioner Newton discussed her concern regarding a property at the top of Ridgeway that was the subject of a past Planning Commission matter. In response, Mr. Rothman noted that he does not own the property and is not concerned about development of the road. Commissioner Newton said she favors a contorted parcel map if the result minimizes project impacts in the UR10 zone. Commissioner Newton commented on working with the Open Space Committee to raise funds to buy the property.

Chair Kehrlein announced a 10-minute break at 9:10 p.m.

4. Discussion of policies to be addressed in the crafting of an Ordinance amending the Fairfax Town Code to rezone all properties currently located in the Highway Commercial (CH) Zone to Central Commercial (CC) Zone, update the permitted and conditional use list in the Central Commercial Zoning Classification and to consider amending the Town parking regulations.

Planning Director Moore presented the staff report. He explained that the purpose of the discussion is to amend the Highway Commercial Zone (CH) to Central Commercial (CC) and add a section under the use classifications under Title 17 of the Town Code, which he discussed. Mr. Moore provided background information on the adoption of the Housing Element and the policy that relates to amending the code, which will allow residences on the second floor without a conditional use permit.

Mr. Moore discussed the public forums that occurred in 2015 relating to the General Plan amendments. He also discussed the purpose of tonight's discussions, which staff hopes results in their being able to write a draft ordinance. Mr. Moore said the four main topics are parking, unit size, affordability and allowable uses in the new CC zone. He said that the discussions should

incorporate uses for the CH zone that should be considered for the CC zone that relate to the CEQA analysis, which he discussed.

Mr. Moore discussed staff's suggestions relating to how the evening's discussions should proceed and the attachments to the staff report. He discussed the reasons why staff has not included landlord requirements that tenants should not be car-owners under the CC zone. Mr. Moore asked the commissioners to confirm that they would like the current language relating to parking requirements to be included in the CC zone with the exceptions listed in the staff report, including in-lieu parking fees, which he discussed. Mr. Moore noted that managed parking strategies will be discussed during the public workshops that will be scheduled to discuss the Town Center Plan.

Mr. Moore went on to discuss the range of unit sizes that the commissioners deem acceptable, noting that the average size would be 500 sq. ft.

Vice-Chair Fragoso discussed a scenario whereby, should a new residential unit be added to a property with existing parking, would the landlord need to comply with the parking regulations. In response, Principal Planner Neal noted they would need to apply for a variance, pay in-lieu fees or comply with the regulations.

In response to Commissioner Green, who suggested that additional parking of 2 spaces might be needed if a unit size is 500 sq. ft. Mr. Moore said it should be discussed by the commissioners.

Commissioner Newton and Mr. Moore discussed a shared use analysis. Commissioner Newton expressed her concern that the regulations would not ensure sufficient parking is provided for a residence of 700 sq. ft., Vice-Chair Fragoso discussed parking in the setbacks, noting that commercial spaces often have parking in the rear.

Commissioner Gonzalez-Parber suggested adding language clarifying the conditions under which in-lieu fees could be paid. Commissioner Gonzalez-Parber and Mr. Moore discussed affordability by design and Mr. Moore noted that other options, such as rent control, had not found favor with the commissioners, which he discussed in relation to second units and efficiency units.

Commissioner Green and Mr. Moore discussed the provision of permitted on-street parking for residents. Mr. Moore noted that this will be addressed under the Town Center Plan development process.

In response to Commissioner Hamilton, Mr. Moore said that staff has not considered removing the requirement for covered parking in the CC zone, noting the requirement could be removed with a variance.

In response to Commissioner Hamilton, Ms. Neal discussed the difference between a conditional use permit and variance relating to the tables. Ms. Neal noted that that a variance relates to an exception to a standard while a use permit relates to different kinds of uses for different zones and are not related to structures, for example.

In response to Chair Kehrlein, Ms. Neal noted that a size variance would be necessary for a request to build a unit that is larger than 700 sq ft.

Chair Kehrlein opened the public comment period. Morgan Hall, Bolinas Road, said he owns property that has no parking. He discussed the reasons he would encourage parking variances to be determined on a case-by-case basis relating to the CC zone and that a precedence should not be set. Mt. Hall said it is important to retain the character of the neighborhood. Mr. Hall also discussed affordability, noting that a project can only be made affordable if it is subsidized. Mr. Hall commented on the expense of building a second unit and the lack of parking in town.

Commissioner Ackerman discussed the problems with parking and said that a solution needs to be found. He discussed the importance of ensuring a new policy does not impact an existing policy and the reasons why he supports the current parking regulations. Commissioner Ackerman noted that a variance could be requested if the parking requirements are not met.

Commissioner Newton pondered on whether any of the parking options encouraged people not to use a car. Commissioner Ackerman said it is his understanding the discussions are based on

whether to add language to the draft Ordinance that includes the current parking requirements for residential units in the CC zone with exceptions. He said it makes sense not to change the regulations and he noted that an in-lieu parking fee has not been created. Commissioner Fragoso discussed the advantages of an in-lieu fee and parking assessment districts. Mr. Moore noted that in-lieu fees would need to be spent on parking improvements, which he discussed in relation to parking assessment districts.

Commissioner Hamilton discussed ways of disincentivizing car user, such as prohibiting parking, and Commissioner Green said that the problem with disincentivizing cars is that people would be disincentivized from visiting Fairfax.

Chair Kehrlein suggested an overlay district for Central Commercial that could incorporate different parking requirements, such as allowing for reduced parking for the second floor units. In response, Mr. Moore noted that the Town Center Plan should incorporate such requirements.

Commissioner Newton discussed her concern that residents who do not own cars will be penalized by being charged parking fees because they live in the downtown area. In response, Commissioner Gonzalez-Parber noted that the in-lieu fees would be charged to the developer at the time of the development application, and not the tenant on a continuous basis. In response to Vice-Chair Fragoso, Mr. Moore said that the Density Bonus Law makes allowance for reduced parking requirements if a developer is providing affordable units.

Commissioner Green suggested a minor amendment to 1c. and that he agrees with staff's suggestions.

Commissioner Newton and Mr. Moore discussed the size of units in relation to RHNA. Mr. Moore noted that a large, expensive unit would be counted as a market-rate unit (as opposed to an affordable unit). He discussed Fairfax's RHNA requirements, noting that the Town aims to provide more affordable units than required by the State.

Mr. Moore clarified the conditions under which staff is suggesting standards can be reduced in the CC zone. Chair Kehrlein suggested polling the commissioners on the language proposed by staff for the CC district:

a. An in-lieu parking fee:

AYES: Green, Hamilton, Fragoso, Gonzalez-Parber

NOES: Newton, Ackerman, Kehrlein

b. A "Parking Assessment District":

AYES: Newton, Hamilton, Green, Kehrlein, Ackerman, Fragoso, Gonzalez-Parber

c. A reduced parking requirement:

The majority of commissioners are willing to consider foregoing parking requirements for a second floor residential unit of 500 sq. ft. or less, providing the current commercial parking requirements are met.

Mr. Moore moved on to the tables that list the permitted and conditionally permitted uses, noting that they include uses that staff proposes are included in the new language of the CC zone. The commissioners are asked to confirm which uses should be allowed, conditionally allowed or prohibited, which Mr. Moore discussed, in addition to the new use classifications by category. He provided an example of the feedback staff requires.

In response to Commissioner Newton, Mr. Moore said the purpose of the new language is to move away from specific use classifications to categories, which he discussed. He noted that they may need to revisit the definition of the categories. Mr. Moore explained that the move to broader uses of categories is a result of policy discussions by the Planning Commission about updating the present archaic classification list. Commissioner Newton discussed her concern that control might be lost by moving towards more general uses. Commissioner Green discussed the need to simplify

the process so that the commissioners review fewer requests, and Ms. Neal discussed the advantages of the proposed new rules for business and property owners.

Commissioner Hamilton clarified her understanding of previous discussions relating to the categories. Commissioner Ackerman discussed the reasons he believes that categories make sense and acknowledged his understanding this was the direction given to staff.

General discussion took place on the tables. Commissioner Newton discussed her concern that without specific uses, it would be difficult for staff to determine that a requested use is not permissible. Commissioner Hamilton noted that the code allows staff to make use determinations and Mr. Moore said that staff's decision can be appealed.

Mr. Moore explained how staff envisioned the discussions on the tables should proceed, which prompted discussion. Discussions then began on the tables on a line-by-line basis. After approximately 30 minutes of discussion, when little progress had been made, in combination with the lateness of the hour, a decision was made by Chair Kehrlein to continue the discussions to a special meeting.

M/s, Green/Fragoso, Motion to continue the discussion of policies addressed in the crafting of an Ordinance amending the Fairfax Town Code to rezone all properties currently located in the Highway Commercial (HC) Zone to Central Commercial (CC) Zone, update the permitted and conditional use list in the Central Commercial Zoning Classification and to consider amending the Town parking regulations to a special meeting:

AYES: Ackerman, Fragoso, Gonzalez-Parber, Green, Hamilton, Kehrlein, Newton

Mr. Moore said that arrangements would be made for a special meeting.

MINUTES

5. Minutes from the December 17, 2015, meeting

M/s, Green/Ackerman, Motion to approve the minutes of December 17, 2016 as amended:

AYES: Ackerman, Fragoso, Gonzalez-Parber, Green, Hamilton, Newton

ABSTENSION: Gonzalez-Parber

DISCUSSION ITEMS

6. Zoning Ordinance Updates: schedule to address zoning code amendments.

The item was continued due to the lateness of the hour.

PLANNING DIRECTOR'S REPORT

Planning Director Moore reminded the commissioners of the Planning Commissioners Academy conference, which he discussed.

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Green noted that the tattoo parlor has not erected a sign indicating that no one under the age of 18 can be tattooed, as stipulated by law, and he commented on the lack of window covering. Ms. Neal noted that staff acted on a complaint and noted that customers were being screened.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:50 p.m.

Respectfully submitted,

Joanne O'Hehir

