

DRAFT Town of Fairfax Special Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, April 28, 2016

Call to Order/Roll Call:

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

COMMISSIONERS PRESENT: Bruce Ackerman
Norma Fragoso
Shelley Hamilton
Laura Kehrlein (Chair)

COMMISSIONERS ABSENT: Esther Gonzalez-Parber
Philip Green
Mimi Newton

STAFF PRESENT: Jim Moore, Planning Director
Katie Wisinski, Assistant Town Attorney
Michelle Levinson, Permit Technician

APPROVAL OF AGENDA

M/s Ackerman/Fragoso, Motion to approve the agenda.

AYES: Ackerman, Fragoso, Hamilton, Chair Kehrlein

ABSENT: Gonzalez-Parber, Green, Newton

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEMS

There were no Public Hearing items.

DISCUSSION ITEMS

1. Continued discussion of policies and review and editing 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: specifically, updating the permitted and conditional use list in the Central Commercial Zone Classification.

Planning Director Moore presented a staff report.

Commissioner Hamilton asked if the Commission would need to do two readings of the ordinance. Planning Director Moore stated "no"- but the Town Council would need to introduce (first reading) and then adopt (second reading) the ordinance at two, separate meetings. The ordinance would go into effect 30 days after the adoption.

Commissioner Hamilton asked about the schedule for the Town Center Element workshops. Planning Director Moore stated staff is working with the Council to schedule the first workshop date.

Commissioner Hamilton stated she would like to discuss overarching questions that could resolve individual points.

Assistant Town Attorney Wisinski referred to page 12 of the ordinance and noted this looks different from the individually enumerated uses formerly laid out for the principally permitted and conditionally permitted uses. This table replaces both of these sections and pulls together the new use classifications into one

spot. It also draws attention to any limitations or additional use regulations that may apply to some or all of these use classifications.

Commissioner Ackerman asked about the status referred to as "Not Permitted". Assistant Town Attorney Wisinski stated this type of use would need a Zoning Amendment.

Commissioner Hamilton asked if this list was comprehensive of the definitions listed in an earlier chapter. Assistant Town Attorney Wisinski stated "no" because it is envisioned that once they expand the idea of using "Use Classifications" across all the Zoning Districts there will be a lot of uses that do not apply in a particular zone. Staff has listed individual use classifications that one might think would be permitted. Commissioner Hamilton asked if a use is not listed then one should assume that it is not allowed. Assistant Town Attorney Wisinski stated "yes". She discussed the "Limitation" and "Additional Use Regulations" columns and Table 17.100.040 "Limitations".

Commissioner Hamilton asked there was a reason why L1 was applied to commercial uses as opposed to all uses including Industrial, Public and Quasi Public, and Residential. Assistant Town Attorney Wisinski stated the Industrial category does include L1 but Residential does not since that will be determined more by the number of units and how they can be configured on a particular property. It did not seem to be a relevant metric for the Public and Quasi Public category.

Commissioner Hamilton asked if the definitions were meant to be exclusive of each other. Assistant Town Attorney Wisinski stated "yes". Commissioner Hamilton referred to a former discussion regarding liquor and tobacco sales. Assistant Town Attorney Wisinski stated liquor and tobacco sales are highly regulated by the State and local jurisdictions have a limited purview regarding the regulation of sales. Local jurisdiction often regulate these products under business licenses and specialty business regulations- this would not be part of the Zoning Ordinance. Commissioner Hamilton asked about the regulation of firearms. Assistant Town Attorney Wisinski stated she has seen the regulation of firearms including in Zoning Ordinances and this is something the Commission could discuss.

Assistant Town Attorney Wisinski asked the Commission if there was interest in exploring breaking down the Food and Beverage sales use classification into some more refined categories. Chair Kehrlein stated that would be helpful. Commissioner Fragoso agreed.

Commissioner Fragoso referred to Table 17.100.040, "Limitations", the L2 category, and stated she thought the Commission had agreed that they wanted retail on the main floor of the downtown. The document allows for non-retail uses with a Use Permit. Planning Director Moore stated someone could apply for a Use Permit- each space is unique and there could be compelling reasons why it might make sense. Assistant Town Attorney Wisinski stated they need to make sure they are using Use Permit criteria that will be applied to all similarly situated applicants. Commissioner Fragoso stated she would like to see some language added pertaining to the retail nature of the downtown and the need for economic viability of the Town. Commissioner Hamilton suggested they add the General Plan language pertaining to this issue. Assistant Town Attorney Wisinski stated they could make a "formal nod" to General Plan compliance.

Commissioner Ackerman asked that a parenthetical be added under the L1 category indicating that it applies to all commercial uses below. Commissioner Hamilton suggested they place "L1" in all of the categories. The Commission agreed.

Commissioner Hamilton stated it was very helpful to have the subcategories called out in the commercial uses but the residential uses were confusing. She suggested clumping the residential uses together in the definitions. Assistant Town Attorney Wisinski stated that was a great suggestion.

Chair Kehrlein referred to the "light industrial" category and suggested adding another subcategory that would include uses such as a cabinet shop, etc. Assistant Town Attorney Wisinski stated it could be divided into two subcategories- one that deals with appliance repair and services and another that deals with chemicals/substances that the public should not be exposed to regularly. Commissioner Ackerman noted the discussion regarding "light" vs. "heavy" industrial uses were related to characteristics such as scale, size, noise, etc. Assistant Town Attorney Wisinski agreed and stated they could reintroduce uses

such as small appliance repair or cabinetry repair into the commercial discussion and out of the light industrial category. Commissioner Hamilton suggested including an introductory descriptive sentence.

Chair Kehrlein referred to the "personal services" definition and noted some of the uses should require a Use Permit due to noise or delivery issues.

Commissioner Fragoso stated "publishing" should be under the "Light Industrial" or the Limited Commercial (CL) Zone- it is not a personal service. Commissioner Hamilton discussed the difference between "publishing" and "printing". Commissioner Ackerman reiterated it was a matter of scale.

Assistant Town Attorney Wisinski noted staff did some minor amendments to Section 1 of the Ordinance to clean up cross-references to the Commercial Highway (CH) Zone.

Commissioner Hamilton referred to Section 4 and asked if this alluded to prior conversations that said if a discrepancy occurred between tables and map then the map prevails. Assistant Town Attorney Wisinski stated the cleanup was meant to point out that the numbering has changed- but it also deals with how to resolve discrepancies between the Zoning Map and the list of parcels within each zone. She noted at this point in time staff is being guided by the list. Planning Director Moore noted the Assessor's Parcel Number (APN) table is not in this section of the Ordinance. He suggested the following language: "In any sections of the ordinance where there is an APN list, the Zoning Map shall prevail". He noted the APN tables are antiquated.

Commissioner Ackerman referred to the bottom of Section 3 and noted there should be an "M" in parenthesis before the PD, Public Domain Zone.

Commissioner Hamilton referred to the bottom of Section 6 and asked if there was a Table "X" of the Town Code. Assistant Town Attorney Wisinski stated staff would verify that.

Commissioner Hamilton referred to Section 7 (B) and stated the "Multiple Residential" does not match the name in Section 3, RM "Multiple-family residential zone". Assistant Town Attorney Wisinski stated that change would be made. Commissioner Hamilton noted the reference to duplexes was called out in the RD 5.5-7 zone but not triplexes or apartment buildings. Planning Director Moore stated the intent of the editing was to redact the Highway Commercial (CH) Zone.

Assistant Town Attorney Wisinski referred to Section 9 and stated staff has deleted the Highway Commercial (CH) Zone but left Chapter Number 17.096 in as "reserved".

Commissioner Hamilton referred to Section 11, 4th sentence, and suggested the following language: "Consequently, store frontages *should* be continuous...." Commissioner Ackerman suggested the words "*are intended to be*" or "*are envisioned to be*". The Commission agreed with the language "*are intended to be*". Commissioner Fragoso asked if it would be appropriate to add a reference to the preservation of the historic and architectural character of the town center to this section. Assistant Town Attorney Wisinski stated "yes" but she was not sure if the boundaries of the town center area were congruent with the new CC zone. Commissioner Hamilton suggested adding some preamble language reflective of the L1 limitations. Assistant Town Attorney Wisinski referred to the scale of the desired retail and commercial uses of the Town Center and asked if the Commission was looking for a scale that would allow for a variety of uses. Commissioner Hamilton stated "yes". Commissioner Fragoso stated it should maintain the character and the architecture. Planning Director Moore suggested the following wording: "Consequently, store frontages are intended to be continuous, with a variety of uses, enhancing the historic village character of Town, and scaled such that the automobile...". Commissioner Hamilton liked the idea of using the words "variety" and "diversity".

Commissioner Hamilton referred to Section 12, Table 17.100.040-1, and suggested the following wording for "U": "Designates use classifications requiring approval of a Use Permit". She referred to the last paragraph and stated the wording with respect to the Director of Planning and Building Services was confusing – it sounds like this individual could authorize new use classifications. She suggested the following wording: "Uses not listed are prohibited unless the Director of Planning and Building Services determines that use fits within an existing class". She noted it was clearly written in Section 2,

17.008.030, Use Classifications. Assistant Town Attorney Wisinski agreed that the suggested wording was clearer.

Chair Kehrlein asked for comments on the table starting on page 12.

Chair Kehrlein referred to page 12, "Health and Wellness Centers", and stated she saw this as a subcategory of "Offices, Medical" and was not sure why a Use Permit would be required. Commissioner Hamilton agreed and suggested adding "Alternative Medicine" in the definition of "Medical" and move "Health and Wellness Centers" into that category. Commissioner Ackerman stated he assumed the difference was one of scale. Assistant Town Attorney Wisinski stated staff left the definition blank and would like some further direction. Commissioner Hamilton stated the difference was appointment-based services vs. drop-in classes. Assistant Town Attorney Wisinski stated they need a way to capture the Health and Wellness concept and she is hearing from the Commission is that it fits more naturally within the medical offices category. Commissioner Hamilton stated the Health and Wellness Center category should be added to the Offices, medical category. Exercise, aerobics studios, yoga classes, etc. should be in the Health Club category but they should add a Personal Improvement/Instructional category for crafts, arts, music studios, etc. Commissioner Fragoso stated it should require a Use Permit.

Commissioner Hamilton stated medical laboratories should be limited to a certain percentage of use. Commissioner Ackerman stated it was already listed as "accessory" to the medical office use.

Assistant Town Attorney Wisinski referred to the supplemental handout regarding assembly spaces (clubs, lodges, YMCA's, etc.) and asked if the Commission would like to add provisions that allow for that type of use in the CC Zone. Commissioner Fragoso stated it should require a Conditional Use Permit with the L2 and L5 qualifiers.

Commissioner Ackerman referred to page 13, "Service stations", and stated he would like it to read "Fueling and Service stations". Assistant Town Attorney Wisinski stated she would like to review the other zoning districts to see whether or not new gas stations would be permitted. Commissioner Ackerman noted they need to keep in mind that it might not be gasoline but rather biodiesel, electric car charging station, etc.

Chair Kehrlein stated they need to have a discussion about the residential uses such as day care centers, etc. Assistant Town Attorney Wisinski stated she would create a line item that would capture the list of educational uses. She asked how this use should be treated. Commissioner Fragoso stated a Use Permit should be required. She noted the chart indicates that a Small Family Day Care Home needs to be on the second floor but she thought there could be some licensing restrictions that preclude second floor use. Assistant Town Attorney Wisinski stated this use has to be permitted in the same way that other residential uses are permitted within the same district.- all residential uses in this district are only allowed on the second floor. Commissioner Hamilton stated she remembers conversations about allowing residential uses in the back. Assistant Town Attorney Wisinski stated she would revisit the language in the General Plan. Chair Kehrlein stated a special type of residential use in the back could be appropriate with a Use Permit.

Commissioner Hamilton referred to page 14, L-1, and asked for the following modification to the first sentence: "Commercial uses.....are *allowed as indicated in Table 17.100.040-1 Limitations*".

Commisisoner Hamilton referred to page 15, Table 17.100.040-1, Additional Use Regulations (C), and noted the provision regarding square footage limits would impact the types of residential uses that would be allowed. Assistant Town Attorney Wisinski agreed. Commissioner Hamilton referred to (A) and asked for the elimination of the words "by right".

Commissioner Hamilton referred to page 15, Section 13, and asked why the reference to accessory structures was deleted. Assistant Town Attorney Wisinski stated the idea was that each of the use classifications would have uses that are accessory to them. Staff could discuss adding an additional use regulation (E).

Commissioner Ackerman asked about page 15, Section 15- CEQA. Assistant Town Attorney Wisinski stated this was left blank since staff could not foresee all the possible impacts. Staff is preparing a list regarding applicable CEQA analysis that could apply.

Commissioner Ackerman referred to page 3, "With take-out services" and asked for the following amended language: "Eating....and/or drinks *for off-site consumption*....". He stated on page 6, "Second Unit", the Section number was left off. Assistant Town Attorney Wisinski stated it should read "Chapter 17.048".

Commissioner Hamilton referred to page 6 and asked if all Residential care homes need to be licensed. Assistant Town Attorney Wisinski stated the first paragraph deals with entities licensed by the Department of Social Services. The second paragraph deals with entities licensed by the Department of Health.

Planning Director Moore briefly discussed his supplemental memorandum. He asked the Commission if they wanted to add provisions for Cultural institutions, museums, art galleries, etc. They are allowed under different categories. Commissioner Fragoso stated they need to affirmatively add them to this new Zoning Ordinance with a Use Permit. Planning Director Moore referred to assembly spaces (clubs, lodges, YMCA's, etc.) and asked if the Commission would like to add provisions that allow for that type of use in the CC Zone. Commissioner Fragoso stated this use should require a Conditional Use Permit with the L2 and L5 qualifiers.

Planning Director Moore asked if there were other uses that have not been accounted for or that the Commission envisions in the downtown fabric. Commissioner Hamilton stated staff could probably come up with some ideas.

Planning Director Moore asked if Adult businesses- retail sales and entertainment should be called out as a separate category. Assistant Town Attorney Wisinski stated they are treated differently because of the First Amendment element to them. The Town can regulate them on the basis of secondary impacts to the community but cannot deny them outright. Commissioner Fragoso stated they should require a Use Permit. Assistant Town Attorney Wisinski stated they need to lay the groundwork that would apply to all applicants. Commissioner Hamilton asked staff to take a look at what other communities are doing.

Planning Director Moore stated staff would do the necessary follow-up and bring the draft ordinance to the Commission at a Special Meeting.

COMMISSIONER COMMENTS AND REQUESTS

There were no reports.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:55 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary