

Town of Fairfax Regular Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, May 19, 2016

Call to Order/Roll Call:

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

COMMISSIONERS PRESENT: Norma Fragoso
Esther Gonzalez-Parber
Philip Green
Shelley Hamilton
Laura Kehrlein (Chair) (arrived 8:15)
Mimi Newton (arrived 7:05)

COMMISSIONERS ABSENT: Bruce Ackerman

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Principal Planner
Michelle Levinson, Permit Technician

APPROVAL OF AGENDA

M/s Ackerman/Gonzalez-Parber, Motion to approve the agenda.
AYES: Ackerman, Gonzalez-Parber, Green, Hamilton, Newton, Fragoso
ABSENT: Ackerman, Chair Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

1. 2626 Sir Francis Drake Boulevard; Application #16-21
Request for a Use Permit to temporarily park up to 6 yellow school buses and up to 6 employees vehicles on the Christ the Victor Church Site during the week; Assessor's Parcel No. 174-070-17; Planned Development PDD Zone; Aubry Smith, Marin Transit Authority, applicant; Christ the Victor Lutheran Church, owner; CEQA categorically exempt per Section 15304(e)

Commissioner Hamilton asked about the time frame for the permit. Planning Director Moore stated it would expire when the construction begins on the senior housing project.

Commissioner Green suggested a change in the language of the resolution.

M/s Green/Hamilton, Motion to approve Consent Calendar item #1, application #16-21, 2626 Sir Francis Drake Boulevard, with the suggested amended language to the resolution.
AYES: Gonzalez-Parber, Green, Hamilton, Newton, Acting Chair Fragoso
ABSENT: Ackerman, Newton, Chair Kehrlein, Acting Chair Fragoso

Commissioner Newton arrived at the meeting.

2. 303 Bolinas Road; Application #16-16
Request for a Use Permit, Parking Variance and Residential Second Unit Square Footage Variance to construct a new, 713-square-foot residential second unit behind an existing 2,659 square-foot, single-family residence; Assessor's parcel No. 002-033-02; Residential RD 5.5-7 Zone District; Laura Kehrlein, Architect, William and Martha Lawlor, owners; CEQA categorically exempt, Section 15303(a) and 15305(a).

Permit Technician Levinson presented a staff report.

Commissioner Gonzalez-Parber asked which parking space would encroach into the side yard setback. Permit Technician Levinson stated the eastern space would encroach. Acting Chair Fragoso asked if this was the space that would relocate the hot tub or the shed. Permit Technician Levinson stated the space where the hot tub currently exists complies with the setback requirements- it is the space next to that, closer to the rear yard. Planning Director Moore noted staff is of the opinion that the stairway could be moved which would allow the space to comply. Commissioner Gonzalez-Parber asked if tandem parking was allowed in this zone. Senior Planner Neal stated only guest spaces could be tandem.

Commissioner Green asked if this second unit would be counted toward the RHNA numbers. Planning Director Moore stated "yes".

Commissioner Newton noted some trees would need to be removed that are within the footprint of the cottage. She asked if this would need to be approved by the Tree Committee. Planning Director Moore stated "yes".

Acting Chair Fragoso if the three spaces indicated in the plans were required for the new unit. She asked how many spaces were required for the house. Principal Planner Neal stated two on-site spaces were required for the main house- the second unit requires one. The guest space for the main house was along the property frontage in the public right-of-way.

Acting Chair Fragoso opened the Public Hearing.

Mr. Fred Devine, architect, discussed the project. This is a reasonable, straightforward second unit. He thought that Green Points allow them to exceed the residential second unit square footage requirement (13 feet). They are willing to revise the plans to comply. Commissioner Green stated this applies to floor area ratios (FAR's). Mr. Devine discussed the parking arrangement. The parking space that encroaches into the side yard setback is 9'x19' and he would be opposed to tearing out the stairs.

Commissioner Green stated the design for the cottage was beautiful but it should comply with the 700 square foot requirement- he did not want to set a precedent. He would be inclined to grant the side yard setback variance so they do not have to change the stairs.

Commissioner Gonzalez-Parber stated there was ample room in the backyard to locate another parking space. She asked if they could rotate the last run of the stairs to the south. Mr. Devine stated that was an option but it would be taking up yard space.

Acting Chair Fragoso asked about a different configuration for the parking and using the space that does not comply as a turn-around. Mr. Devine stated the yard was important and it made more sense to use the space where the hot tub was located.

Permit Technician Levinson discussed a different scenarios suggested by staff- grant a variance for a compact space (8' X 16') as the third space to replace the one that encroaches into the side yard setback.

Acting Chair Fragoso closed the Public Hearing.

Commissioner Green stated he liked the staff recommendation for a compact space. He also wants the second unit reduced to 700 square feet.

M/s Hamilton/Green, Motion to continue application #16-16, 303 Bolinas Road, with the suggested modifications for a compact parking stall and reduction of the second unit to 700 square feet, and direct staff to return with the resolution.

AYES: Gonzalez-Parber, Green, Hamilton, Newton, Acting Chair Fragoso

ABSENT: Ackerman, Kehrlein

Acting Chair Fragoso stated the 10-day appeal period would begin after adoption of the resolution. .

3. 1625 Sir Francis Drake Blvd. and 5 Belle Avenue; Application #16-17
Request for a Use Permit, Parking Variance and Design Review to convert a single-family residence to 2 living units and office space for the adjacent restaurant that is also located on the property and shares a parking lot with the residential structure; Assessor's Parcel No. 002-211-21; Highway Commercial CH Zone/Residential RD 5.5-7 Zone; Kelly Day-Medina, applicant/owner; CEQA categorical exemption, Section 15301(a), 15303(b)

Chair Kehrlein arrived at the meeting and took her seat at the dais.

Principle Planner Neal presented the staff report. She noted the site was very unusual in terms of its zoning- half is in the Highway Commercial Zone and the other half is in the RD 5.5-7 Residential Zone.

Commissioner Green stated they need to make sure the office is not used as a living space. He noted Traffic Engineer Parisi was not sure if the ADA parking space would have an ADA compliant path of travel to the restaurant of the building. Principal Planner Neal stated it would be very difficult to change the sidewalk around those trees to get a minor change in the slope.

Chair Kehrlein asked if the Building Official had any comments about the handicapped loading space. Principal Planner Neal stated he said it was fine.

Chair Kehrlein referred to the abatement process of the other unit and asked if fines had been levied or a deed restriction requirement. Principal Planner Neal recommended the Commission make the deed restriction (only two living units) a Condition of Approval.

Chair Kehrlein opened the Public Hearing.

Mr. Art Chartock, architect, stated they agree to all the conditions with the exception of Condition #6- the owner would like to keep the shower.

Ms. Kelly Day, owner, stated her daughters spend a lot of time at the restaurant and they use the shower. She has no intention of living in the office. Principal Planner Neal stated staff has no problem with allowing the shower to remain.

Commissioner Gonzalez-Parber asked how the trash would be accessed. Ms. Day stated she is working with the recycling company and they are down to a small container. Commissioner Gonzalez-Parber asked if the trucks could get into the new parking lot. Ms. Day stated "yes".

Chair Kehrlein was concerned that the loading zone was not the right width. She asked for an explanation for the parking configuration. Mr. Chartock stated they wanted to get the handicapped space at a more convenient location to the lift.

Chair Kehrlein closed the Public Hearing.

Commissioner Green stated he would like to add a condition that the applicant shall provide nine parking spaces for the restaurant.

M/s Fragoso/Hamilton, Motion to approve application #16-17, 1625 Sir Francis Drake Boulevard, and adopt Resolution #16-21 setting forth the findings and conditions in the staff report with the addition of the deed restriction on the residential unit and the additional condition recommended by Commissioner Green.

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

ABSENT: Ackerman

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

4. 22 Meadow Way; Application #16-18
Request for Hill Area Residential Development, Excavation and Encroachment Permit(s), Design Review, and a Parking Variance for a 50% remodel/expansion of a single-family residence; Assessor's Parcel No. 003-122-50; Residential Single-Family RS 6 Zone; Rich Rushton, Rushton

Chartock Architects, applicants; Nadim and Stacy Nahas, owners; CEQA categorically exempt Section 15301(e)(2).

Principal Planner Neal presented a staff report.

Commissioner Fragoso asked if the project would include a greywater system- this seemed like an excellent project to do a "landscape to laundry" system. Principal Planner Neal stated they do have to comply with MMWD requirements.

Commissioner Green stated the house was in a very open area and it was "screaming" for solar.

Chair Kehrlein opened the Public Hearing.

Mr. Nadim Nahas, owner, stated they oriented the addition in such a way that the first level is down slope from the existing roof and the upslope addition is down slope from the existing structure. The front of the house will have clerestory windows to provide privacy. The trees are being removed per the direction of the Fire Department.

Mr. Rushton stated the greywater system would be an easy thing to do and there are relatively inexpensive pumps and tanks that can be purchased.

Commissioner Green asked if they had considered solar panels. Mr. Rushton stated "no" since the property is blocked by trees on the south side.

Chair Kehrlein closed the Public Hearing.

Chair Kehrlein stated this is a beautiful piece of property and a great design.

Commissioner Green suggested some changes in the language of the resolution under the "Covered Parking Variance" section

M/s Newton/Fragoso, Motion to approve application #16-18, 22 Meadow Way, and adopt Resolution No.16-12 setting forth the findings and conditions in the staff report with the amended language suggested by Commissioner Green.

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

ABSENT: Ackerman

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

5. 93 Rocca Drive; Application #16-19
Request for a Use Permit to legalize a bedroom and bathroom addition associated with a single-family residence; Assessor's Parcel No. 001-225-27; Residential Single Family RS 6 Zone; Rich Dowd, Architect/Applicant; Bernell and Tony Loeb, owners; CEQA categorically exempt, Section 15301(e)(1).

Principal Planner Neal presented the staff report.

Commissioner Gonzalez-Parber asked if the applicant had considered legalizing the second unit as opposed to converting it into the house. Principal Planner Neal stated they do not have any way to provide the parking. They are thinking about converting it to a junior second unit after it becomes legalized.

Commissioner Newton asked if the kitchen would need to be removed from the former second unit. Principal Planner Neal stated they would need to remove either the sink or the counter.

Commissioner Hamilton asked if the spiral staircase would be taken out should the unit be converted to a junior second unit. Principal Planner Neal stated "no"- junior second units should be internally connected with the house.

Chair Kehrlein opened the Public Hearing

Ms. Bernell Loeb, property owner, stated they were attracted to the house because of the additional space- they are artists.

Mr. Rich Dowd, architect, thanked staff for helping them through the process. The proposal is simple, effective, and inexpensive.

Mr. Randy Engle, Taylor Drive, stated this is a creative, low impact, way of enhancing the space.

Ms. Maryanne Cannel was concerned that there was no extra parking required for a junior second unit. She stated their driveways connect with the Loeb's and she was concerned about getting blocked in.

A resident stated he called the Town four times regarding construction going on at the property. He wanted the project to be monitored.

Chair Kehrlein opened the Public Hearing

Commissioner Green stated he liked the project- it was well planned and very nice. Chair Kehrlein agreed.

M/s Fragoso/Gonzalez-Parber, Motion to approve application #16-19, 93 Rocca Drive, and adopt Resolution No.16-13 setting forth the findings and conditions in the staff report.

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

ABSENT: Ackerman,

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

6. 118 Tamalpais Road; Application #16-20

Request for a Side-Yard Setback Variance and an Encroachment Permit to rebuild access stairs to an existing single-family residence; the original access stairway was destroyed in a land slide 5 years ago; Assessor's Parcel No. 002-121-61; Residential Single-Family RS-6 Zone; Nick Rasic, Applicant, Federal National Mortgage Association, owner of record; CEQA categorically exempt, Section 15302 and 15305(a)

Principal Planner Neal presented a staff report. She noted this was a necessary improvement that had to be built- the situation was not safe.

Commissioner Fragoso asked if people were living in the house. Senior Planner Neal stated "yes". Commissioner Gonzalez-Parber asked if the house was condemned. Senior Planner Neal stated "no".

Chair Kehrlein opened the Public Hearing.

Ms. Claudia Williams, attorney for Federal National Mortgage Association (owners), stated they agree with the staff report.

Commissioner Green asked Ms. Williams about a lawsuit that was referenced in her letter dated May 17, 2016. Ms. Williams stated the case pertains to Mr. Bess' alleged agreement to repurchase the property from Fannie Mae after the foreclosure.

Mr. Larry Bragmen, attorney for Mr. Walter Bess, discussed the facts of the case. The pending lawsuit is not about possession but about ownership of the house. He would like an opportunity for his engineer to look at a complete set of plans. He asked the Commission to continue this application.

Commissioner Newton asked Mr. Bragman to respond to staff's safety concerns. Mr. Bragman stated the homeowner has had a nurse visit the house once a week since 2011 with no problems. Commissioner Newton stated emergency medical personnel might not be able to access the property. She has concerns about allowing this state of disrepair to continue. Mr. Bragman stated the intent of these proceedings was to leverage the Bess family out of their home.

Ms. Williams discussed the court orders with respect to the amended complaints. She stated the applicants were requesting a variance and encroachment permit to build stairs to take care of the unsafe conditions. The stairs are not up to code.

Commissioner Gonzalez-Parber stated the work required seems quite substantial and she asked if there were structural drawings done by a civil engineer for the replacement of the stairs. Principal Planner Neal stated the plans given to the Commission have been stamped by the soils engineer. If the Commission has concerns they can ask the Town Engineer to review the plans prior to issuance of the Building Permit.

Chair Kehrlein closed the Public Hearing.

Commissioner Green asked if the plans were sent to the applicant. Principal Planner Neal the engineer has to authorize the release of stamped plans- staff cannot copy them without his or her authorization. This engineer said "no"- but there is always a copy in the public packet.

Chair Kehrlein stated it would be worthwhile to send these types of project to the Town Engineer during the Building Permit phase.

Commissioner Green asked for clarification about which tree would be removed. Principal Planner Neal stated the tree T2 would be removed.

Commissioner Fragoso asked if the Town Attorney has reviewed this application. Principal Planner Neal stated "no" since there are no legal questions with respect to the discretionary permits. Commissioner Newton stated Mr. Bragman had mentioned his client's due process rights. Principal Planner Neal stated the Commission could ask the applicant to extend the Permit Streamlining Act time limit.

Commissioner Green stated the underlying litigation was irrelevant to the issue of the stairs. Repair of the stairs would benefit the residents. The health and safety issue is paramount.

Principal Planner Neal stated it would take the Town Engineer at least a month to review the plans and produce a report.

Chair Kehrlein asked the applicant if they would be willing to request an extension. Ms. Williams indicated she wanted the Commission to act on the application tonight.

Commissioner Green stated the Commission should act tonight and condition the approval on review of the engineering. Commissioner Fragoso agreed and stated the applicant should pay for the review.

Commissioner Newton stated the request for a 30-day continuance was reasonable and she was disappointed that the applicant would not agree to it.

M/s Hamilton/Fragoso, Motion to approve application #16-20, 118 Tamalpais Road, and adopt Resolution No.16-13 setting forth the findings and conditions in the staff report with the additional condition that the Town Engineer review and approve the plans

AYES: Fragoso, Green, Hamilton, Chair Kehrlein

NOES: Newton

ABSTAIN: Gonzalez-Parber

ABSENT: Ackerman

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

DISCUSSION ITEMS

MINUTES

7. Minutes from the February 25, 2016 Special Meeting, the March 17, 2016 Regular meeting, the April 21, 2016 Regular Meeting, and the April 28, 2016 Special Meeting

M/s Newton/Kehrlein, Motion to approve the February 25th minutes as submitted, March 17th minutes as amended, April 21st minutes as submitted. The minutes from the April 28th meeting shall be continued.
AYES: Fragoso, Gonzalez-Parber, Green, Hamilton, Newton, Chair Kehrlein
ABSENT: Ackerman
ABSTAIN: Hamilton (March 17th minutes), Chair Kehrlein (April 21st minutes), Gonzalez-Parber, Newton, and Green (April 28th)

PLANNING DIRECTOR'S REPORT

Planning Director Moore reported the Commission would be meeting next Thursday to work on the Draft Ordinance rezoning properties in the Highway Commercial (CH) Zone to the Central Commercial (CC) Zone. The first Town Center Plan Workshop will be held on Tuesday, June 14th from 6:30 p.m. to 9:30 p.m. at the Women's Club. They will be looking at the existing policies of the Town- the Town Center Element, the Parkade Improvements Plan, the recent updates to the Bicycle and Pedestrian Master, etc. He will be presenting an urban design analysis of the CH and CC areas of Town. The focus will be on coming to a consensus on the issues and opportunities in the Town Center area.

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Hamilton stated the Commission had developed a wish list which included amending the Town Code regarding parking. Planning Director Moore stated he would discuss this with the Council at tomorrow morning's budget session.

Commissioner Green stated he recently walked the Wall property and he suggested installing signs that would locate the building pads. Planning Director Moore stated he would pass that suggestion on to the property owner.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:50 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary