

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".

Commissioner 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

DRAFT Town of Fairfax Special Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, May 26, 2016

Call to Order/Roll Call:

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

COMMISSIONERS PRESENT: Norma Fragoso
Esther Gonzalez-Parber
Laura Kehrlein (Chair)
Mimi Newton

COMMISSIONERS ABSENT: Bruce Ackerman
Philip Green
Shelley Hamilton

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

APPROVAL OF AGENDA

M/s Fragoso/Gonzalez-Parber, Motion to approve the agenda.

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

ABSENT: Ackerman, Green, Hamilton

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.

Chair Kehrlein asked for a page-by-page review of the ordinance.

Chair Kehrlein referred to page 2 of the staff report and wanted to make sure the zoning map would take precedence in the event there was a discrepancy between the map and the Assessor's Parcel Number (APN) table. Planning Director Moore stated the map is the precedence since the table is being redacted with regard to the Central Commercial Zone.

Commissioner Newton referred to page 2, Section 1, "Kennel" and asked if the ordinance has a definition for both "kennel" and "kennels". Principal Planner Neal stated "yes". Commissioner Newton stated the definition should be in the plural. Commissioner Fragoso agreed.

Chair Kehrlein referred to page 4, Section 3, "Commercial Uses" and explained that some of these uses were taken out of the "light industrial" category.

Chair Kehrlein referred to page 5, Section 3, "Financial Institutions", and noted most have an automated teller machine. Principal Planner Neal stated if an ATM machine is outside of the building then it needs Design Review. Planning Director Moore noted drive-through ATM's are permitted but with limitations. Commissioner Fragoso asked about the limitations. Principal Planner Neal stated traffic/parking impacts could be one limitation. Commissioner Newton stated this would be based on the Conditional Use Permit criteria.

Chair Kehrlein referred to page 6, Section 3, and pointed out the addition of the "Maintenance and Repair Services" which came out of the previous "Light Industrial" category. She asked how the light industrial types of uses (warehouses, etc.) would be handled. Planning Director Moore referred to the Table on page 14, "Industrial Uses- Light Industrial", and noted the Commission covered that and added the appropriate stipulations. Commissioner Newton asked why the definition of "Light Industrial" was left out in the ordinance. Commissioner Fragoso agreed- some definition for what they are now calling "Light Industrial" would be appropriate. Planning Director Moore stated staff would take a look at that.

Chair Kehrlein referred to page 14 and asked why "Light Industrial" was a Permitted Use and would not require a Use Permit. Planning Director Moore agreed- the "P" would be changed to a "U".

Commissioner Newton referred to the "publishing" vs. "printing" discussion at the last Commission meeting and asked what category desktop publishing (Internet-based services) was placed. Chair Kehrlein stated "publishing" was stricken from the "Personal Services" category. Commissioner Newton stated printing was more industrial. Commissioner Fragoso stated the Commission saw publishing as being more industrial. Commissioner Newton disagreed- the Commission discussed desktop publishing on a computer and the process of making a book would be considered printing and bookbinding. Planning Director Moore suggested not eliminating "publishing" from the Personal Services category and calling it "desktop publishing". Commissioner Newton discussed the concept of "volume" and asked if the Commission drew a distinction between small vs. large scale. Commissioner Fragoso stated "printing and publishing" could be added to the definition of "Light Industrial" and "desktop publishing" could remain under "Personal Services". Planning Director Moore stated "large scale book printing and binding" would be added to the definition of Light Industrial and "desktop publishing" would remain in the Personal Services category.

Chair Kehrlein referred to page 6, Section 3, and stated "self-service laundries" should be moved from the Personal Services category to the Cleaning Services category.

Commissioner Fragoso referred to page 7, Vehicle/Equipment Sales and Services, and noted the table on page 14 was blank with respect to this category. Commissioner Fragoso stated a Use Permit should be required.

Commissioner Newton asked if garbage or recycling services were addressed. Planning Director stated that could be added to the new definition of Light Industrial.

Chair Kehrlein noted the Commission did not discuss Residential Uses at the last meeting. She asked for comments.

Commissioner Fragoso referred to page 8, "Family Day Care Home" and stated she thought the limit was six children. Principal Planner Neal stated cities could not require a Use Permit for a business with six or fewer children in a residential area. This category is talking about larger day care centers.

Commissioner Newton referred to page 8, "Adult Day Care Home" and asked that the phrase "including elderly persons" be eliminated. The Commission agreed that this should be a permitted use.

Commissioner Gonzalez-Parber asked if there was a definition for skilled nursing facilities. Planning Director Moore stated this could be added to the Residential Care Home category.

Commissioner Newton had questions about the Congregate Living Facility category. Commissioner Gonzalez-Parber suggested replacing the word "apartments" with "individual living quarters". Commissioner Newton suggested the following wording: "group cooking facilities". Commissioner Fragoso suggested renaming the category from Congregate Living Facility to "Group Living Home".

Chair Kehrlein asked where pre-schools were listed in the ordinance. Commissioner Fragoso stated this type of facility was licensed and she was not sure they should be located in the downtown and had requirements that could not be accommodated in the Central Commercial Zone. Principal Planner Neal noted there were several already in existence. They should be allowed with a Use Permit. Commissioner Newton stated a definition for Commercial Child Care should be added. It could be defined as Youth Services (in the Commercial category) and would include commercial day care, educational after school programs, etc.

Chair Kehrlein stated the Congregate Living Facility and Group Residential categories seem to be the same. Commissioner Fragoso stated they could be combined. Commissioner Newton agreed and stated the definition could specify "separate kitchens" or "a central kitchen". Planning Director Moore stated this newly created category could be broadly defined which would allow for variation or exclusion. A Use Permit would be required. Commissioner Newton recommended eliminating the Group Living Home category and replacing it with the following wording in the Group Residential category: "Shared living quarters *with or without separate kitchen or bathroom facilities...This classification does not include services and facilities licensed by the State of California*".

Commissioner Newton referred to the Residential Care Home category and noted it did not include medical care. Commissioner Fragoso stated skilled nursing care should be included in this category. Commissioner Gonzalez-Parber disagreed and noted they have other requirements. Commissioner Newton referred to the second paragraph and stated she did not understand the terms "congregate living health facilities" and "family care homes". Chair Kehrlein stated these were terms used in conjunction with State regulations.

Commissioner Fragoso referred to the Single Room Occupancy category and noted there was no definition. Planning Director Moore stated staff would work on a definition.

Commissioner Newton referred to the Second Unit category and suggested eliminating the word "housekeeping".

Commissioner Gonzalez-Parber suggested replacing the word "handicapped" with "disabled" wherever it appears.

Planning Director Moore stated staff would work on the Skilled Nursing category and present it to the Commission at the next meeting. Commissioner Newton stated it should require a Use Permit.

Commissioner Fragoso referred to the Supportive Housing category and noted it fits under a particular Health and Safety Code and is typically a non-profit organization that is not required to be licensed. Transitional Housing is a very specific Federal category that requires a maximum of 18 months stay and not less than 6 months stay (a homeless shelter). It can be a homeless shelter which has a 3-month maximum. Commissioner Newton suggested adding a Homeless/Emergency Shelter category. Planning Director Moore stated this has been added to the Town Code and would be easy to add to the ordinance.

Commissioner Newton stated there was a reference to dispensaries on page 2 and she asked if a delivery service could be run out of this zone. Planning Director Moore stated cultivation would not be allowed in this zone and the idea of delivery services would be coming back to the Commission.

Planning Director Moore stated staff would work on the Skilled Nursing category and present it to the Commission at the next meeting. Commissioner Newton stated it would require a Use Permit.

Commissioner Newton referred to the top of page 11 and asked if the zoning map took precedence over the assessor parcel maps with respect to land use designations. Planning Director Moore stated "yes" but that was not part of the Commission's task tonight- they are simply eliminating the Highway Commercial Zone (CH) and folding it into the Central Commercial Zone (CC). The other zones are not being addressed yet.

Chair Kehrlein asked for comments on the table.

Commissioner Newton referred to page 14, "Adult Day Care" and asked if this use should require a Use Permit. Commissioner Fragoso stated the Town was not allowed to require a Use Permit. It was the consensus of the Commission that the Small Family Day Care Home category, the Residential Care Home category, and the Second Unit category, should be permitted uses; the Large Family Day Care Home category, Multi-Family Residential category, the Single Room Occupancy category, the Emergency Homeless Shelter category, Supportive Housing, and Transitional Housing should require a Use Permit; the Junior Second Unit category should be eliminated from the table. Commissioner Fragoso referred to page 9 and suggested "Multi Family Residential" be renamed "Second Story CC Residential Units". Planning Director Moore stated a property in the CC Zone that was historically residential and converted to commercial should be allowed, with a Use Permit, to be converted back to residential on both floors. The Commission agreed.

Planning Director Moore stated staff would bring back the revisions and clarity on the Commission's questions at the next meeting.

COMMISSIONER COMMENTS AND REQUESTS

Planning Director Moore reported that Commissioner Hamilton was stepping down from the Commission. She would continue until the Council appoints a replacement.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:40 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMENS CLUB
THURSDAY, JULY 21, 2016

Call to Order/Roll Call:

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

Commissioners Present: Norma Fragoso
Esther Gonzalez-Parber
Phillip Green
Shelley Hamilton
Laura Kehrlein (Chair)
Mimi Newton

Commissioner Absent: Bruce Ackerman

Staff Present: Jim Moore, Planning Director
Linda Neal, Principle Planner
Katie Wisinski, Town Attorney

APPROVAL OF AGENDA

Planning Director Moore recommended to the Commission that they pull the Consent Calendar items off of the agenda and continue them to August. There was a slight glitch in the noticing procedure.

M/s, Fragoso/Newton, Motion to approve the agenda with the suggestion made by staff. The Consent Calendar items shall be continued to the August meeting.

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

ABSENT: Ackerman

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Ms. Pam Meigs, Cypress Drive, discussed the recent fire in Cascade Canyon and asked if there was a Fire Storm Evacuation Plan in place. Commissioner Green stated the Ross Valley Fire Department would come out, look at the area, and schedule a meeting with the neighborhood.

CONSENT CALENDAR

1. 80 Hickory Road; Application #16-28

Request for a Use permit to legalize a 662-square-foot, bedroom wet-bar and storage room addition to a 2,097-square-foot, 3-bedroom, 2-bath, single-family residence, including legalization of 1 parking space and associated retaining walls and an approximately 180-square-foot deck and a proposed 342-square-foot carport cover on an existing car-deck; Assessor's Parcel No. 003-191-43; Residential Single-family RS 6 Zone District; Fred Divine, applicant/architect; Karen and Carlos Morales, owners; CEQA categorically exempt, Section 15301(e)(1).

2. **141 Bolinas Road; Application #16-27**
Request for Design Review to install a 96-square-foot, 10-foot-high shed at the rear of the property; Assessor's Parcel No. 002-104-04; Central Commercial Zone; Julie Hochstrasser, applicant; Scott and Julie Hochstrasser, owners; CEQA Categorically exempt per Section 15303(e).
3. **17-19 Broadway; Application #16-29**
Request for a Use Permit and an exception to the parking regulations to prepare meals for an existing commercial business in a food trailer stored in two of the parking spaces of the business parking lot; Assessor's Parcel Numbers 002-121-23 and 24; Central Commercial CC Zone; Tony DeFrance, applicant; Gary and Amory Graham, owners; CEQA Categorically exempt per section 15301(a).

Chair Kehrlein noted these items were continued to the August meeting.

PUBLIC HEARING ITEMS

4. **Ordinance Amending the Town of Fairfax Town Code Chapter 5.052 ('Business Taxes, Licenses, and Regulations'), Chapter 7.008 ('Definitions'), Chapter 17.012 ('Zone Districts Established'), Chapter 17.020 ('Design Review Regulations'), Chapter 17.092 ('CL Limited Commercial Zone'); Chapter 17.096 ('CH Highway Commercial Zone'), and 17.100 ('CC Central Commercial Zone') and Addendum to Mitigated Negative Declaration prepared for the 2010-2030 Fairfax General Plan. The proposed ordinance affects all properties within the Central Commercial (CC), Highway Commercial (CH) and the Limited Commercial (CL) Zoning Districts, as depicted on the Fairfax Zoning Map; categorically exempt from CEQA per 14 C.C.R. Section 15301, 15303, and 15332.**

Chair Kehrlein stated individuals would have three minutes to give public testimony and five minutes if representing a larger group.

Planning Director Moore presented a staff report.

Assistant Town Attorney Wisinski gave a brief overview of the proposed Ordinance and stated it accomplishes two things: 1) Rezoning of all parcels currently zoned Commercial Highway (CH) to Central Commercial (CC) per the General Plan's direction; 2) Takes the uses (allowed and conditionally allowed) in the new revised CC District and amends them to incorporate some of the old uses allowed in the CH and some of the uses that are required per State Law.

Commissioner Fragoso referred to Section 13 of the ordinance, page 16, "Single Family Residential" use and asked if this was currently allowed in the CC Zone. She noted the Commission had discussed several housing units that were converted to commercial and how they should be allowed to be re-converted back to residential. Planning Director Moore referred to page 18, Additional Use Regulations, "F" and suggested the following amendment: *"Notwithstanding....homes in existence that maintain their residential character...shall be included... if they are returned to residential use "*.

Commissioner Newton asked for clarification on the issue of "flexibility" with respect to the State definitions for residential uses. Assistant Town Attorney Wisinski stated the uses are listed in the staff report (page 3, 4, & 5) with an indication of where State law dictates certain treatment of those uses. The ordinance also cites the particular State law.

Commissioner Newton asked how the Governor's proposed By Right Bill would affect the density numbers. Assistant Town Attorney Wisinski stated the proposed By Right housing legislation would require cities to provide a ministerial approval process for certain qualifying housing projects that

were meeting minimum density and affordable housing benchmarks. CEQA review would not be conducted under these ministerial approvals and cities would not be able to impose conditions. Planning Director Moore stated cities could still hold developers/contractors to defined development standards and design guidelines. Assistant Town Attorney Wisinski discussed existing Density Bonus Statutes that create pathways for developers to propose projects that have a greater density than would otherwise be allowed in exchange for the provision of affordable housing in the project. Density bonus thresholds could be met in a number of ways.

Commissioner Newton asked Town Attorney Wisinski to briefly discuss the uses that are no longer allowed under the draft ordinance. Assistant Town Attorney Wisinski listed the uses that are not permitted and added that any use not mentioned in the table is also not allowed.

Commissioner Green referred to page 15, Section 13, Commercial Uses, "Service Station" and "Limited Vehicle Service" and stated he would like to allow for the possibility of electric and hydrogen vehicles filling/service stations. Assistant Town Attorney Wisinski stated the definition of a "Service Station" refers to a "gasoline station" and not alternative fuel stations. Staff could find a way to include this but they were limited in how to parse the uses and instead need to speak to the relative impacts. Planning Director Moore stated nothing in the ordinance prohibits electric charging stations. Commissioner Green asked if they could substitute the word "gasoline" with "power/fuel". Assistant Town Attorney Wisinski stated "yes".

Commissioner Gonzalez-Parber asked Assistant Town Attorney Wisinski to briefly discuss the Table titled Limitations (L1 through L6) and Additional Use Regulations. Planning Director referred to Additional Use Regulation "D" and stated the Commission had talked about relaxing the parking requirements on units of 500 square feet or less if the underlying commercial use meets the parking requirement. Assistant Town Attorney Wisinski stated she would make that change.

Chair Kehrlein opened the Public Hearing.

Mr. Alexander Binick, representing the DeToxics Institute, made the following comments:

- He urged the Commission to delay their vote since the public has not had enough time to review the materials.
- The rezoning would affect traffic and parking.
- Adoption of a Downtown Plan should precede this rezoning.
- He discussed the large apartment project in Corte Madera (former Wincup site) and a three-story project proposed for San Anselmo.
- He had questions about the Density Bonus Law and the proposed By Right legislation.
- He was worried about unintended consequences that would reduce the quality of life in Fairfax.

Ms. Patty Patterson, Scenic Road, made the following comments:

- She operates a business on Bolinas Road.
- She had a question about the location of the CH Zone.
- They need to make room for gas stations and auto repairs shops.

Mr. Josiah Luis, owner of Casa Manana, made the following comments:

- This is a complicated issue.
- The ordinance does not create a "village character"- taking away retail space would destroy it.
- Small, family-owned businesses define a town- not medical offices.

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

- He sees major problems with the ordinance- it is very confusing.

- The two gas stations and the car wash along Sir Francis Drake Boulevard would no longer be legal.
- Small, retail businesses on the first floor would be pushed out by tech and office businesses.
- A number of Fairfax's oldest buildings would be bulldozed for a couple of low-income units and high rental condominiums.
- A Historical Preservation Ordinance should be adopted.
- They need an ordinance to protect small-town businesses from evictions.
- He asked the Commission to continue this ordinance.

Mr. Nicolo Calderrero, Frustuck Avenue, made the following comments:

- The Governor's proposed legislation strips out the ability of local authorities to control density.
- A philosophical discussion is missing (size, density, etc.).
- There are a lot of hidden rental units that make up the effort for low-cost housing- this should be encouraged.
- Increasing the size of small cities does not cover the cost of services- the more they grow, the less they can provide.
- All the efforts in legislation since 1968 to increase and make development easier has not resulted in any appreciable affordable housing.

Mr. Fritz Dern, Olema Road, made the following comments:

- The last workshop regarding the Downtown Plan discussed the potential for development along Olema Road and at the Christ Lutheran Church but these projects are not being discussed tonight.
- People need to be well informed.
- Allowing 22 units at 10 Olema Road is not sustainable and will make that road dangerous. He wants to know what the plan is for this property before it is rezoned.
- The Planning Commission is the gatekeeper for the community.

Ms. Wynn Corwin, Fairfax, made the following comments:

- She thanked the Commission for putting a lot of thought into the ordinance.
- She has not had a chance to look at all the issues.
- She asked the Commission to hold off on voting tonight.
- She asked if water, fire, traffic issues have been addressed.
- Not requiring a unit to have a parking space is a big mistake.

Ms Diane Hoffman, Fairfax, made the following comments:

- It seemed like the staff was not on the same page and the Commission should not vote tonight.
- This ordinance is so draconian.
- She had a question about the sale of an existing, non-conforming business.
- She referred to the recent petition regarding rezoning.
- She is opposed to intense rezoning.

Mr. Eric Leland, Dominga Avenue, made the following comments:

- These issues are being talked about at the local retail businesses.
- It is time to step back and talk about how to grow as a community.

Ms. Miriam Weinstein, Oak Tree Lane, made the following comments:

- She asked if there was some way to get State representatives to recognize that these are "one size fits all" regulations that have no reality in existence.
- She would like the "noose" taken off of small towns.

- She asked if the agreement between the County of Marin and the Federal Government was still in place- it requires all affordable housing developments to do outreach to low-income minorities in adjacent counties.

Ms. Diane Purdue, Scenic Road, made the following comments:

- She heard about the meeting today.
- The issue is confusing.
- Developers getting special treatment and maintaining a "village" feeling do not go together.
- She is not in favor of rezoning to add more units.
- She asked why Fairfax belongs to the Association of Bay Area Governments (ABAG) and whether or not the Town could succeed.
- Fairfax has a right to remain a small town.
- Traffic is already a problem.
- Natural resources are finite- the number of homes in Fairfax should also be finite.

Ms. Suzuki Katie made the following comments:

- She is concerned about changes that could endanger the counter-culture nature of Fairfax.
- She is worried about homogenized redevelopment plans for the Town.
- Changes in zoning should be agreed upon by the majority of residents.

Ms. Sue Burn, Mono Avenue, made the following comments:

- She asked the Commission to hold off on voting tonight given the volume of information.
- She asked where cars would go when units were built downtown.
- There is no parking available for this multitude of units.

Ms. Denise Larson, Scenic Road, made the following comments:

- Parking and traffic has gotten horrendous over the past several years.
- Any plans should look at the overall issues.
- Senior housing will have individual living there who drive.

Mr. Mason Holcomb made the following comments:

- He encouraged the Commission to move away from their focus on aesthetics and focus more on social values.
- He is in favor of rent control in Fairfax.

Ms. Michelle Simonson, Park Road, made the following comments:

- She is completely confused about what is being proposed.
- She asked for a list of pros and cons and would like people to be able to vote on the issue.
- She asked the Commission to put off a decision.

Mr. Mark Hammerman, Fairfax, made the following comments:

- There have not been any comments in favor of the proposal. The Commission should consider that when voting tonight.
- He moved to Fairfax from St. Louis and has grown to love the Town.

Mr. Jim Bitter, Mill Valley, made the following comments:

- What is happening in Fairfax is happening throughout the country.
- Staff should be telling the public where these mandates are coming from- the Regional Needs Housing Assessment numbers, the Complete Streets Program, etc.

Kirsten made the following comments:

- She does not agree with the proposal.
- She agreed with the other comments made.
- She understood the mandate for affordable housing.
- The current zoning laws are pretty good.
- The Commission should delay this decision.

Ms. Jessica Green, Fairfax, made the following comments:

- She lives in the hills and will not be able to ride a bike downtown if there is no parking.
- Why are they voting for all this stuff before the workshop happens?
- The Commission should wait before voting.

Nancy, San Anselmo, made the following comments:

- Fairfax remains the only "town" in Marin County. It is unique.
- The Commission should educate the public about the RNHA numbers, PDA's, TOD's, Complete Streets, etc.

Ms. Robert Anthes, Fairfax, made the following comments:

- After the October 29, 2015 meeting, she sent the Council and staff a letter with four question and did not get a response.
- This decision should be postponed.
- It was important to maintain local control.

Mr. Michael Macintosh made the following comments:

- This process has been undertaken correctly.
- He is concerned they are avoiding a full-blown EIR by amending a pre-existing one.
- The average household in Marin County generates 11.7 car trips per day- additional housing would exacerbate the congestion.
- The proposed ordinance is not good for the Town and he does not support it.

Mr. Joe Franazack, Pacheco Avenue, made the following comments:

- He asked if there was a reason to change the zoning now given the possible impacts of the Governor's proposal.

Chair Kehrlein closed the Public Hearing.

Chair Kehrlein asked staff to respond to the public's questions.

Assistant Town Attorney Wisinski provided the following comments:

- The Density Bonus statute is already on the books- rezoning does not affect whether or not a developer qualifies. The proposed rezoning would impose caps where no caps currently exists.
- An existing business whose use was not permitted by the new ordinance would not be forced out by the rezoning. If an existing business owner wanted to sell or transfer his or her business to a new operator then the use would continue. However, the new owner would not be able to expand the use.
- She does not see a reference to 20 units/acre in the staff report but rather a notation that the Mitigated Negative Declaration for the General Plan anticipated a minimum of 20 units/acre in the CC District. Rezoning a 4.5 unit/acre maximum would substantially reduce that.
- Retail space would still be a permitted use under the proposed ordinance- office use would be allowed in the rear of buildings and conditionally permitted in the storefront.
- Possible rezoning of 10 Olema Road is a separate issue and is not part of this process.

- The General Plan was amended in 2012 and the Housing Element was amended in 2015 to indicate they are going to rezone the CH parcels to CC. This was done, in part, to satisfy the RHNA numbers. The Zoning Code must conform to the General Plan. There is also language in the General Plan about revising the CC District to protect the “village character”.

Planning Director Moore provided the following comments:

- He acknowledged that this is a complicated process. There is an incredible overlay of regulatory requirements.
- He acknowledged that traffic and parking are a mess- the document tries to create options for housing, parking, and traffic.
- He clarified that a 500 square foot unit would not require parking as long as the underlying commercial meets the parking requirements. The intent is to incentivize people to build smaller units without being burdened by the parking requirements.
- The Town Center Plan process is parallel to this process but they are two separate actions called for in the General Plan.
- Staff vetted the Governor’s proposed legislation.
- The CEQA process reviewed the capacity for utilities (water, trash, sewage, etc.)- this draft ordinance has fewer impacts than the previous one.

Commissioner Gonzales-Parber provided the following comments:

- She thanked everyone for attending tonight’s meeting but she is concerned there is a disconnect.
- The proposed ordinance attempts to expand the “village” feel and reduce the previously approved housing.
- She wondered how communication could be improved.

Commissioner Fragoso provided the following comments:

- The process is complex but not “rocket-science”.
- There is misinformation that people are buying into.
- This process has nothing to do with the Governor’s proposed legislation.
- This process has nothing to do with the Town Center Plan-it is a separate process.
- This is not a housing policy document with the exception that a commercial property could build a small apartment upstairs.
- The only uses no longer allowed would be formula businesses, “big-box” stores, new gas stations, and warehouses.
- They are encouraging pedestrian walkways, improved streets, and architectural character that is in keeping with what exists.

Commissioner Green provided the following comments:

- None of this is cookie-cutter or coming down from any other higher organization.
- This is a homegrown ordinance.
- This is being done the “Fairfax way”.
- He acknowledged that the traffic density was terrible.
- They need to maintain the Town character.
- He is inclined to recommend approval of the ordinance to the Town Council.

Commissioner Hamilton provided the following comments:

- This process has been going on for some time including updating the General Plan and Housing Element. Planning is an on-going process.
- Changes are happening to the Town even though they have not expanded that much over the last 10-20 years.

- Change can happen “to us” or they can facilitate that change. This is one of the tools that would help them guide that change.
- They need to continue the process.

Commissioner Newton provided the following comments:

- Staff has done an incredible job.
- She asked if there would be a downside to putting off the decision to August. Planning Director Moore stated “no”.
- She is concerned about the Governor’s bill.
- She asked staff for better maps.
- The public deserves more time to digest the information.

Chair Kehrlein provided the following comments:

- She would like to have more time to review the document.
- She wants this to be the best document they can put together.

Commissioner Gonzales-Parber asked Planning Director Moore to talk about the next steps. Planning Director Moore stated the Commission would make a recommendation to the Town Council via a resolution. The Town Council would hold at least two publically noticed meetings (first reading and then second reading of the ordinance). Once adopted at a normally scheduled meeting, the ordinance would go into effect 30 days after adoption. The Town Council can hold as many meetings as they wish and edit the document along the way. They can also send the document back to the Commission if there were any substantial changes.

Commissioner Green had questions about the potential impacts to the Governor’s proposed bill. Assistant Town Attorney Wisinski stated if the bill passes it could be bad for local governments since it is an attempt to roll back local land use authority.

Chair Kehrlein asked for a poll of the Commission on whether or not they wanted to continue this item. Commissioner Gonzalez-Parber stated she is confident that the draft ordinance reflects what the public is asking for. Commissioner Fragoso stated she would be comfortable moving this along to the Council. Commissioner Green and Commissioner Hamilton agreed. Commissioner Newton stated she would like to the review for another month. Chair Kehrlein stated the consensus of the Commission was to pass the ordinance on to the Council.

Chair Kehrlein asked the Commission if they had any specific comments.

Commissioner Green provided the following comments:

- He asked if language could be added to the resolution that states when an existing business owner wanted to sell or transfer his or her business to a new operator then the use could continue. Assistant Town Attorney Wisinski stated this is a general principal of law but language could be added specifying that currently existing uses that are rendered non-conforming by adoption of the ordinance would be granted legal non-conforming status with all rights. It was the consensus of the Commission to add such language.

Commissioner Hamilton provided the following comments:

- She referred to Section 13, page 15, “Automobile washing”, “Vehicle/equipment repair”, and “Service Station” and stated these uses should be allowed with a Conditional Use Permit. Assistant Town Attorney Wisinski stated one single electric charging station would be allowed but multiple charging stations would be prohibited unless it was an accessory use. Commissioner Green stated they need to make provisions for multiple charging stations. He asked if a restaurant could install a couple of charging stations. Assistant Town Attorney

Wisinski stated the Commission could include this as an accessory use. It was the consensus of the Commission to allow charging stations as a permitted, accessory use. It was the consensus of the Commission to allow "Vehicle/equipment repair" and "Limited vehicle service" with a Use Permit, and subject to Additional Use Regulation B, but not allow "Automobile washing" or "Service Stations".

Commissioner Newton provided the following comments:

- She referred to page 18, Additional Use Regulations", D, and noted they were trying to incentivize the creation of an affordable unit. She is comfortable with this provision. It was the consensus of the Commission to amend the language to say "Notwithstanding... *there shall be no additional parking* requirement for each residential unit that is 500 square feet or less *if the underlying commercial use meets its parking requirements*".

Commissioner Green provided the following comments:

- He does not see anywhere in the ordinance that prefers offices to any other particular use as was asserted by some of the public. Offices should be in the back of a storefront or the top floor.
- He does not see any need to change the office designations. Chair Kehrlein stated an office use would need a Use Permit for the street frontage. Commissioner Hamilton referred to page 17, L-2, and suggested adding the following language: "...the proposed use (1) is compatible with the existing character and uses *in store frontages in the area as articulated in Section 17.100.101 (Purpose)*". Assistant Town Attorney Wisinski proposed an additional finding: "The proposed use activates the storefront usage in a way similar to a retail use".
- He would also like to see in L-2 a brief outline of the A-F findings that need to be made in Section 17.032.060. The Commission agreed.

It was the consensus of the Commission to approve Planning Director Moore's amended language to page 18, "F": "Notwithstanding....homes in existence *that maintain their residential character...shall be included... if they are returned to residential use* ".

Assistant Town Attorney Wisinski referred to page 8, under "Community Uses", and stated "Cultural Institution" could be removed since this is already included in the code. Commissioner Hamilton asked that it not be removed- everything in the table should be found in the Definitions Section.

Commissioner Newton made a motion to continue this item subject to submittal of the revisions by staff. There was no second on the motion and the motion failed.

M/s, Green/Fragoso, Motion to adopt the Resolution #16-25 and recommend to the Town Council adoption of an Ordinance Amending the Town of Fairfax Town Code Chapter 5.052 ('Business Taxes, Licenses, and Regulations'), Chapter 7.008 ('Definitions'), Chapter 17.012 ('Zone Districts Established'), Chapter 17.020 ('Design Review Regulations'), Chapter 17.092 ('CL Limited Commercial Zone'); Chapter 17.096 ('CH Highway Commercial Zone'), and 17.100 ('CC Central Commercial Zone') and Addendum to Mitigated Negative Declaration prepared for the 2010-2030 Fairfax General Plan. The proposed ordinance affects all properties within the Central Commercial (CC), Highway Commercial (CH) and the Limited Commercial (CL) Zoning Districts, as depicted on the Fairfax Zoning Map, as amended by the Commission and staff tonight.

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

NOES: Newton

ABSENT: Ackerman

MINUTES

5. Minutes from April 28, 2016 special meeting, the May 19, 2016 regular meeting, the May 26, 2016 special meeting, and the June 16, 2016 regular meeting.

M/s, Green/Newton, Motion to approve the minutes of May 19 as submitted and June 16, 2016 as corrected. The minutes of April 28, and May 26, 2016 are continued due to lack of a quorum
AYES: Ackerman, Gonzalez-Parber, Green, Hamilton Newton
ABSTAIN: Hamilton (for the June 16th minutes)
ABSENT: Ackerman, Frago

PLANNING DIRECTOR'S REPORT

Planning Director Moore stated staff recently implemented "real time" editing at the meetings for better transparency. He referred to the recent application approved by the Commission for a single-family home off of Oak Manor Drive and noted the property owner would be meeting with the Open Space Committee next Tuesday. He read Policy OS 1.4.1 and Program OS 1.4.1.2 of the Open Space Element of the General Plan. He noted Principal Planner Neal maintains an inventory of all the parcels contained in the appendix and a system of identifying them when necessary. He reported staff sent a letter to the applicants of the Christ the Victor project that the application is incomplete. Staff met with the representatives yesterday. He reported the second workshop regarding the Town Center Plan has been rescheduled from August 6th to Saturday, October 1st. He continues to search for a firm to facilitate the workshops.

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Newton asked for an opportunity at an upcoming meeting to address the Commission on Open Space policies and the Conservation Element. Commissioner Hamilton stated this could be a standard part of the Commission agenda with Commissioners reporting on various topics.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:31 p.m.
Respectfully submitted,

Toni DeFrancis,
Recording Secretary