

DRAFT Town of Fairfax Special Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, February 25, 2016

Call to Order/Roll Call

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

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

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Principal Planner
Katy Wisinski, Assistant Town Attorney
Michelle Levinson, Permit Technician

Planning Director Moore announced that the Bicycle and Pedestrian Advisory Committee will be meeting on Monday, March 5, 2016, at 7 p.m. to discuss updating the Bicycle and Pedestrian Master Plan.

Mr. Moore also announced that ABAG will be making a presentation at the Town Council's next meeting on March 2nd, which he discussed.

APPROVAL OF AGENDA

M/s, Green/Newton, Motion to approve the agenda:

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No one came forward to speak.

DISCUSSION ITEM

1. Continued discussion on policies to be addressed in the crafting of an Ordinance amending the Fairfax Town Code to rezone all properties currently located in the Highway Commercial (HC) Zone to Central Commercial (CC) Zone: specifically, updating the permitted and conditional use list in the Central Commercial Zoning Classification.

Planning Director Moore presented the staff report. Mr. Moore provided background information on the previous discussions relating to the transfer of zoning requirements for Highway Commercial (HC) to Central Commercial (CC), which include the transfer of allowable uses from HC to CC and those uses that would also require a conditional use permit (CUP).

Mr. Moore introduced Assistant Town Attorney Katy Wisinski and Michelle Levinson, Permit Technician. Mr. Moore provided an overview of the process involved in crafting a new Ordinance and noted that the move from HC to CC would be more pedestrian-friendly and in line with the General Plan, which he discussed.

Commissioner Hamilton discussed the purpose of the discussions in relation to land use and the effects of moving specific uses into larger categories. Chair Kehrlein commented on the absence of categories that might be deemed appropriate, such as large retail and light industrial, which she discussed.

Mr. Moore noted that the purpose of the exercise is to decide upon whether a use should be allowed under the CC zone by right, granted under a conditional use permit (CUP), or not allowed altogether, regardless of how they are categorized.

Ms. Neal noted that that Commissioner Hamilton was suggesting that there are some uses that might not be permitted at the front of a retail building, so there would be a need to indicate which general categories could be at the street front and which could be located at the back of a building.

Commissioner Green noted that some of the uses, which would not be deemed suitable for the CC zone, might be more suited to the CS zone, which Mr. Moore noted has limited space.

Ms. Wisinski suggested the commissioners use the notes column to indicate the location of a use in a building, which she discussed in relation to creating classification labels. Commissioner Hamilton discussed her concern that uses, which might not be suitable in a certain location, would automatically be allowed in that location because of how they have been classified. In response, Ms. Wisinski clarified the method she suggested, noting that there should be commonality between the uses that would separate those from different retail uses. She said that there must be reasonable and rational cause for treating uses differently, which she discussed. Mr. Moore noted that Ms. Wisinski would draft the ordinance pursuant to the CEQA process, which he discussed.

Commissioner Hamilton discussed more of her concerns about the use of permitted uses in classifications, which relate to allowing unlimited uses, such as bar and liquor licenses. Ms. Wisinski said she could incorporate appropriate language for review at the next meeting should that be the wish of the commissioners. Commissioner Green made a suggestion for including such language in the draft ordinance, which he discussed with Ms. Wisinski.

In response to Vice-Chair Fragoso, Ms. Neal confirmed that the General Plan or Zoning Ordinance does not address a timeframe for use permits for venues serving alcohol.

Ms. Wisinski clarified the differences between the two charts with regard to the Principal Permitted Uses and Conditional Uses in response to Vice-Chair Fragoso. Ms. Wisinski said she took the liberty of completing the table for permitted uses but did not go through the same exercise for conditionally permitted uses for reasons she explained, noting that there are no direct comparisons in some cases and it was felt the decision about including conditionally permitted uses in the CC zone should be made by the commissioners.

In response to Commissioner Hamilton, who asked if uses that are not included in the CC Zone could be granted a variance, Ms. Wisinski noted that variances are not granted for use permits. However, she noted that an applicant for a non-permitted use could request an amendment to the Zoning Ordinance.

In response to Commissioner Newton, Ms. Wisinski provided an explanation of what should result from the proposed changes to the ordinance. She said that, if approved, the existing CH ordinance would be repealed in its entirety, but that the existing CC ordinance would be amended in relation to the permitted uses and conditionally permitted uses, which she discussed. Ms. Wisinski noted that it is anticipated there would be a shorter table of use classifications that would be defined in the definition section in the Zoning Ordinance. As other sections of the Zoning Ordinance are amended, they would be updated with those use classifications instead of individually enumerated uses until all the zoning districts have the same nomenclature. Ms. Wisinski confirmed that the amendments relate only to the CC zone and anything that refers to those sections and definitions in the code.

Discussions moved on to the first item in the table referring to alternative birthing centers, when Commissioner Ackerman commented on the term, and provided background information on a previous request to establish an alternative birthing center. Discussion took place on classification and licensing, and Commissioner Hamilton discussed the use of terminology in relation to business codes. Ms. Wisinski said the uses listed are from the current Fairfax code and bear no correlation to any other code.

In response to Commissioner Ackerman, Ms. Wisinski said she could investigate the legal definition for the use of Alternative Birthing Center, after which the commissioners can decide whether they wish to include this under a new use classification. Following further discussion, Ms. Wisinski said she will determine if a legal definition exists for this use and a suitable notation was made under the notes. Commissioner Fragoso discussed the difference between a birthing center and wellness center with regard to the location of medical offices in a building.

Chair Kehrlein opened the public comment period. A member of the public commented on alternative health and wellness centers, such as chiropractic and acupuncture that she would like included in the discussions. Chair Kehrlein closed the public comment period.

Commissioner Hamilton discussed her understanding of the difference between a medical practice and alternative medical practice and the location of such offices in a building.

Commissioner Newton commented on the need for the commissioners to review the draft ordinance before being reviewed by the Town Council. Ms. Wisinski noted that the General Plan provides no direction on changes to the existing uses, but the commissioners' task is to decide which uses that are included in the CH should be included in the CC zone. Ms. Wisinski confirmed she would review the classification for alternative birthing centers for further discussion by the commissioners.

Commissioner Fragoso led a discussion on the way forward with continuing the discussions on the tables.

Chair Kehrlein and Commissioner Hamilton discussed uses, such as appliance repairs, that could be permitted at the rear of a building. There was general consensus that storefronts should be reserved for retail and pedestrian uses and other uses could be conditional. Mr. Moore noted that staff could approve a permitted use.

Chair Kehrlein opened the public comment period. Todd Greenberg, 47 Buena Vista, asked for a balanced community and said there are valuable businesses at the front of a store, such as the former Mr. Fixit and a cobbler's store in Mill Valley. He said it is a great loss to the community if such businesses could not occupy storefronts.

Further discussion took place on domestic/appliance repair businesses and their placement in a building in the CC zone. There was general agreement that a business, such as one described by Mr. Greenberg, should be allowed to operate at the front of a building since it would be deemed to be part of the character of the town. Commissioner Newton discussed her concern that other businesses in that category, such as one with a windowless storefront, might also be able to occupy the same space as a cobbler, for example.

In response, Ms. Neal noted that, if a conditional use permit were required, there are legal findings that would need to be made for the permit to be approval. Counselor Wisinski suggested adding an additional finding for a CUP, whereby if a use is prohibited in the CC district or only allowed at the back of the premises, an additional finding would need to be made that the purpose of the use must closely fit the desirable criteria of business and she provided an example.

Following further discussion, there was consensus that light industrial uses would be permitted at the rear of a building and a CUP would be required to occupy a storefront.

General discussion took place on the need to regulate bars and restaurants, or only bars. Commissioner Hamilton commented on ABC licenses for alcohol, tobacco and firearms, which Counselor Wisinski suggested might be broader than the commissioners would like to consider. There was general consensus that Counselor Wisinski will provide further information before further discussion by the commissioners.

In response to Commissioner Newton, Counselor Wisinski confirmed that appliance sales should be a permitted use, unlike appliance repairs.

A member of the public expressed concern that fine dining establishments offering cocktails might be prohibited, noting that other towns have similar restaurants. In response, Commissioner Frago confirmed the commissioners are not considering prohibiting such restaurants, and Chair Kehrlein noted they are making a distinction between establishments where the primary focus is on alcohol, rather than dining.

Commissioner Ackerman asked Counselor Wisinski to explain the comment regarding building supplies and lumber, noting that the current lumber business has retail items on the interior and exterior of the store. Counselor Wisinski noted that principal permitted uses in this category are required to be within a building, and it was perhaps anticipated that a CUP would be required for outdoor sales.

Commissioner Green explained why he believed that contractors' facilities should not be allowed in the CC zone. He commented on the toxicity of a diaper service and the unlikelihood of a department store opening, which is why he believes they are also unsuitable uses for the CC zone, although he noted that there is a dry-cleaning service.

Commissioner Green thought that a carpenter's and cabinetry business should be more clearly defined. Commissioner Ackerman noted that there is a cabinet-making business in Town and that he thought it made sense to allow the businesses under a CUP, so that it is not ruled out entirely.

Chair Kehrlein commented on such types of businesses being light industrial, to which Commissioner Newton is in agreement. She suggested that a building contractor's business should be allowed at the back of a building and conditionally allowed at the front.

Chair Kehrlein discussed the reasons she believe a department store should require a CUP, based on its size and deliveries, which prompted discussion. Commissioner Hamilton favored the requirement for a CUP for the businesses discussed, noting that the purpose of a CUP is to control uses in a location. Commissioner Hamilton and Commissioner Gonzalez-Parber commented on a diaper service.

There was general consensus that the classification of the uses discussed should be placed under light industrial, to be permitted at the back of a building and would require a CUP for the front. Counselor Wisinski said she would seek clarification on banning a department store from the CC zone.

Commissioner Hamilton led a discussion on catering services. Counselor Wisinski suggested adding a category for professional food preparation for off-site consumption. There was general consensus that it should be permitted at the back of a store and require a CUP for the front.

Chair Kehrlein discussed her hesitation to ban department stores. The commissioners will await further clarification from Counselor Wisinski.

In response to Commissioner Gonzalez-Parber, staff said the current lumber business would become legal, non-conforming if the ordinance is adopted.

In response to a member of the public, staff confirmed that the changes do not affect the Away Station, which is part of Fairfax Lumber and is in a different zone.

Commissioner Newton led a discussion on current businesses in the CH zone where part of their sales operation is on the exterior of a building. Ms. Neal noted that they would become legal non-conforming uses.

In response to Commissioner Ackerman, Counselor Wisinski said she would recommend an appropriate use classification for uses encompassing graphic artists, painters, etc. Discussion ensued on the creation of a category for professional offices, including financial businesses. There was general consensus that the category would be a permitted use on the second floor and at the back of a building, but would require a CUP for the front of a building. Categories under light industrial should not be permitted on the second floor.

Ms. Neal discussed the reasons staff believes storefronts should be reserved for retail use only, and she noted there is second floor space for offices in downtown buildings, which prompted discussion. Counselor Wisinski suggested a combined use that draws people through the door with a suitable finding, to which there was agreement.

There was general agreement to Commissioner Hamilton's suggestion for changing furniture and upholstery from personal services to light industrial. There was also agreement to allowing light industrial as a permitted use at the back of a building and conditionally permitted use at the front, with a ban on the second floor, which allows residential use.

Following comments by Commissioner Fragoso, there was general agreement that gyms and weight-training establishments would need a CUP in the CC zoning district.

There was general agreement that janitorial services would be suitable under the light industrial category. Discussions moved on to laundry services/drycleaners, when consensus was reached that a CUP should be required for reasons relating to toxicity.

Commissioner Newton addressed lumber stores and outdoor nurseries and said she would approve of retail nurseries and garden supply stores.

A discussion on laboratories commenced with general consensus being reached that a CUP should be necessary and the use should not be permitted in a storefront. Furthermore, laboratories should be categorized separately, not in the storefront and requiring a CUP.

Discussions took place on the suitability of a lumbar yard and outdoor nursery in the CC zone, and Ms. Neal read the code on the purpose of the CC zone. She said there are other areas where those uses could be located. There was agreement that lumber yards should not be allowed in the CC zone, while the majority of commissioners (4:3) agreed that garden supplies and nurseries should be allowed under a CUP.

Discussions moved on to mail order and catalogue sales. There was consensus that they should be categorized under light industrial and allowed in the back of a building or on the second floor. Counselor Wisinski said she would consider the classification for mail services and advise the commissioners. Packing and crating would be categorized under light industrial.

Discussions on parks on public property ensued. Counselor Wisinski suggested it remain allowable in the CC zone for reasons she discussed and noted it would be a public use.

Commissioner Newton discussed the reasons she believes the use should not be subject to a CUP, which relates to encouraging individuals to convert their property to open space. Commissioner Ackerman discussed the reasons the use should require a CUP. He believes it could change the character of the CC zone and that it would be preferable to discuss the proposed changes.

In response to Commissioner Gonzalez-Parber, staff confirmed a CUP would be appropriate for conversion to a public park or similar design, to which most of the commissioners were in agreement (6:1).

Counselor Wisinski commented on the continuing discussions. She suggested the commissioners discuss the permissible uses, and that staff could continue completing the conditional use table based on the commissioners' decisions made this evening. Mr. Moore suggested that staff draft an ordinance for the commissioners' review.

Commissioner Green and staff discussed permitted service uses in the CS zone. There was general consensus amongst the commissioners that these uses should remain allowable only in the CS zone and not in the CC zone.

Discussions went on to storage units and garages. Ms. Neal discussed the reasons such businesses would not be desirable in the CC zone.

Chair Kehrlein opened the public comment period and Todd Greenberg commented on residences in the downtown area and limited parking. He expressed concern that residential uses that have been in existence for a long time would be prohibited from providing parking in addition to limiting retail at the front of a building. He said it appeared the changes might make it hard to do either.

Mr. Moore said that Mr. Greenberg owns a house next to 31 Broadway with parking at the front, which is legal non-conforming. He noted that the Town wants to preserve housing and that the parking policy applies to second floor uses.

Commissioner Hamilton commented on storage units in relation to ancillary use, and asked if the current code allows first floor residential. In response, Ms. Neal said first floor residential requires a CUP and she suggested that, should storage be allowable in the CC zone, staff suggests it should require a CUP for reasons she discussed.

Commissioner Fragoso said the code would not preclude an existing homeowner to add a garage and Mr. Moore noted that design review would be required.

Mr. Greenberg noted that he does not own the property he lives in and he commented on his belief that there should be the ability to provide parking.

Discussions on parking garages and storage units as primary uses in the CC zone continued amongst the commissioners and staff. Commissioner Hamilton commented on not wishing to allow a property to have only these uses. Staff recommended allowing the uses under a CUP for reasons discussed. The commissioners declined to allow parking garages and storage units as primary uses in the CC zone (5:2).

A discussion took place on scientific instrument shops and services in relation to a business that sold metal detectors. Ms. Neal noted that it was a retail/wholesale service business and combinations of different types of uses require a use permit. Discussion took place on whether scientific instrument shops and services should be categorized as professional services, rather than retail or wholesale services. Counselor Wisinski noted that it could be classified as either retail or wholesale and/or professional services. She said they might wish to consider the pedestrian element when classifying scientific instrument shops and that she would make further recommendations.

Discussion took place on swimming pool sales, including sales of items relating to pools. Counselor Wisinski suggested that businesses with showrooms of hot tubs and spas should be classified as light industrial, while businesses selling items relating to hot tubs, etc., should be classified as retail, to which there was consensus.

There was consensus that upholstery shops should be classified as light industrial, tool and cutlery sharpening should be classified under personal services, and ticket agency would be a professional service. In response to Commissioner Ackerman, Counselor Wisinski said that the notes could reflect the need for soundproofing construction in order for a sharpening service to be permitted in the CC district. There was also general consensus that warehouses should not be allowed in the CC Zone.

Commissioner Newton said she believes that garden supply stores appear to be a retail use, as opposed to a nursery, which prompted discussion. There was general consensus that such a business would fit a retail use if the items on sale were contained within a building.

In response to Commissioner Green, Ms. Neal noted that live entertainment should require a CUP for reasons she discussed, so it is not listed as a permitted use under the CC zone.

Chair Kehrlein opened the public comment period and Todd Greenberg discussed his concern that many people will be affected by the proposed changes and who are unaware of the process. Mr. Greenberg asked the Town to ensure that business owners and residents are made aware of the impacts of the zoning changes.

In response, Mr. Moore explained that an ordinance is being crafted and he discussed the public process. He said that all the property owners and residents within a 500 sq. ft. radius of the area affected will be notified when there are formal public hearings by the Planning Commission and Town Council. Mr. Moore said that tonight's meeting is notified on the Town's website and in three public spaces and is also being televised.

Commissioner Frago and Mr. Moore discussed the effects on current businesses if the ordinance becomes effective, with input from Counselor Wisinski.

Commissioner Green suggested a classification is rewritten on page 2 of the draft table.

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:20 p.m.

DRAFT Town of Fairfax Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, March 17, 2016

Call to Order/Roll Call

Chair Kehrlein called the meeting to order at 7:05 p.m.

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

COMMISSIONERS ABSENT: Shelley Hamilton

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Principal Planner

APPROVAL OF AGENDA

M/s, _____, Motion to approve the agenda with the item concerning the Director's Report preceding the discussion item:

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No one came forward to speak.

CONSENT

- 1 **9 Chester Avenue; Application # 16-07:** Request for a Use Permit and Combined Front/Rear Yard Setback Variance for an art studio/storage structure and deck adjacent to a single-family residence; Assessor's Parcel No. 001-203-19; Residential Single-family RS 6 Zone District; Doug and Maureen Kroll, applicants/owners; CEQA categorically exempt, §§ 15303€ and 15305(a).

- 2 . **120 Laurel Drive; Application # 16-08:** Request for a Use Permit to construct a partially-enclosed shade cover over an existing deck that is attached to a single-family residence; Assessor's Parcel No. 003-131-13; Residential Single-family RS 6 Zone District; Doreen Stock, applicant/owner; CEQA categorically exempt, § 15301(e)(1).

Commissioner Green suggested amendments to the resolution for the item at 9 Chester Avenue, to which there was unanimous consensus.

In response to Vice-Chair Fragoso, _____ said the artist studio was constructed in _____, and Ms. Neal confirmed that a building permit is not necessary for buildings under 120 square feet but that planning approval is required. She noted that this is a retroactive action.

In response to Vice-Chair Fragoso, Ms. Neal discussed the reasons for showing details on the plans for 120 Laurel Avenue that do not affect the project, which she confirmed is for deck work only.

M/s, Fragoso/Ackerman, Motion to approve Consent:

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

Chair Kehrlein read the appeal rights.

DIRECTOR'S REPORT

Planning Director Moore provided an update on the marijuana cultivation ordinance. Mr. Moore said that, following recommendations by the Planning Commission, the Town Council did not pass the ordinance and made a decision to request public input through the Town's website on cultivation, delivery services and also on Airbnb. Mr. Moore said the results of the online poll will be available in April and staff will bring the draft ordinance before the Planning Commission if there are recommended changes. However, he noted that, if there are no changes to the commissioners' recommendations, the Town Council will review the draft ordinance.

In response to Vice-Chair Fragoso, Mr. Moore noted that the timeline for passing the ordinance was relaxed by the State so action is no longer urgent. Mr. Moore discussed the conditions for a previous approval for a delivery service in relation to the proposed new marijuana ordinance.

Mr. Moore also provided an update on the priority list for ordinance modifications. He noted that the Junior Second Ordinance has been accomplished and the Second Unit and Amnesty Ordinance should be ready for discussion in the latter part of the summer. Mr. Moore discussed the timelines for other ordinance modifications, including a green building ordinance and also changes to the APN tables on the Zoning Map. Mr. Moore summed up the accomplishments over the past year and the priorities going forward, including rezoning the Highway Commercial Zone to the Central Commercial Zone and managed parking strategies.

DISCUSSION ITEM(S)

- 3 Wall Property: Presentation by the owner of the Wall Property on a potential future project submittal - The property owner plans to present a revised vision for the use of the property (the original vision was presented at the October 22, 2015, with a revised version presented at the January 21, 2016, Planning Commission meeting.
□

Planning Director Moore made opening remarks, and he confirmed that a formal application has not been submitted. Mr. Moore explained that the purpose of the evening's discussions is for Mr. Rothman to discuss his plans and for the public to respond in an effort to move forward with the project.

Marshal Rothman, managing partner of the group that owns the Wall Property, said that as a result of the last public meeting, they will be submitting a single application for their project, rather than three separate applications, which he discussed.

Mr. Rothman also explained that they have provided an easier map for people to understand and have made copies available to the public. Mr. Moore commented on the changes that have been made to the map since the last meeting, and he noted that the 14-acre parcel has been included and the roads have been highlighted. Mr. Rothman explained how they are able to donate 4 acres for an open space trail parcel, which he discussed.

In response to Mr. Moore, Mr. Rothman clarified the colored areas on the parcel map, including an open space parcel and trail, which will be donated to the Town. Mr. Rothman also discussed other open space areas, noting that the single application should enable them to add additional space to the open space trail.

Mr. Rothman discussed the smallest parcel in relation to the lot size and dwelling, explain how they will be adding additional square footage to the lot.

Mr. Rothman discussed access to the sites, which he noted would be from Marinda Drive for all but one of the lots. Mr. Rothman explained how they proposed to increase the public access areas and trails following the previous public meeting. He said that the great majority of the property will be greenbelt, and 6 – 7 acres will be given to the public open space trail parcel. He note noted that a very small area of each lot will be used for dwellings, and that there will be screening.

In response to Vice-Chair Fragoso, Mr. Rothman used the map to clarify the access road to the parcels. He said the property owners would be responsible for maintaining the open space portion of their land, and he noted that the Planning Commission could impose conditions, which he discussed. Vice-Chair Fragoso discussed her concerns about homeless encampments.

In response to commissioner Green, Mr. Rothman discussed the incorporation of green building requirements and energy conservation in their design, including solar and water catchment systems and sustainable lumber products.

In response to Commissioner Gonzalez-Parber, Mr. Rothman confirmed the properties could not be fenced in and he discussed enforcement. He confirmed the size of the houses depicted by squares on the map would be 4,000 sq. ft. but he said it is likely the houses will be smaller.

In response to Chair Kehrlein, Mr. Rothman said it has been too wet to undertake soils analyses but he and his soils engineers have inspected the sites and there do not appear to be any sign of landslides.

In response to Commissioner Newton, Mr. Rothman clarified the area of land that they intend donating for public use and the trail that is proposed. He discussed the access road to their properties in relation to the trail, which he noted should run parallel to the road. Commissioner Newton and Mr. Rothman also discussed the road to the 14-acre parcel.

Mr. Rothman said they do not anticipate needing landscaping to provide screening, although a landscape plan would be provided. Commissioner Newton and Mr. Rothman also discussed the visual impacts from the property, particularly from downtown, in relation to the General Plan. Mr. Rothman said they are confident that single-story dwellings (in the main) can be designed so there should be no visual impacts. Mr. Moore noted that, if the plans go ahead, a photomontage of views from the property from various locations in town must be provided as part of the CEQA review.

In response to Commissioner Newton, Mr. Moore discussed the processes. He said the Planning Commission would be reviewing the entitlement applications (including design review) alongside the tentative parcel maps and land division process. Mr. Moore also discussed the CEQA process and the need to mitigate impacts.

In response to Commissioner Green, Mr. Rothman said they would not consider installing exercise equipment on the parcel of land they are considering donating to the Town for reasons he discussed.

Commissioner Ackerman and Mr. Rothman discussed a road in relation to maintenance and Mr. Rothman confirmed the public would not have vehicular access to that road.

Chair Kehrlein opened the public comment period.

Susan Beren, representing some residents in the Oak Manor neighborhood, discussed their concerns about traffic and geological impacts, fire risk, and environmental impacts. She said they would be cutting through land that articulates with open space and that she is pleased there will be an environmental impact report.

Niccolo Calderero, 165 Frustuck Avenue, commented on the decrease in value of homes in the neighborhood caused by increased density, and he said that traffic is already at capacity. Mr. Calderero also discussed decreases in public transportation, and he commented on the project not meeting any housing needs and the need for a property value tax to support workforce housing.

Jessica Green, Ridgeway, discussed the unsuitability of the land that the applicant is proposing to dedicate as opens space. Ms. Green also discussed her concern regarding emergency access to the properties at the top of the road.

John Romaidis, 49 Madrone, discussed his confusion about whether the public will have access to the road, which appears to be private, in order to gain access to the trail. He said it would be nice if the public could drive up to the trail.

Jane Richardson-Mack, 49 Madrone, discussed her confusion about the private road and how the public will be prevented from gaining access. Ms. Richardson-Mack also commented on the difficulty of preventing owners of the large properties from developing their land, and she discussed changes to the wildlife corridor and commented on the displacement of nature.

Henry Froneberger, San Gabriel Drive, expressed his concern about how the trail will be developed and access across seasonal streams at the back of his property.

Barbara Cedarblade, San Gabriel Drive, expressed confusion about the financial responsibility of building and maintaining the trails. Ms. Cedarblade also discussed her concerns about geological problems and the responsibility for mudslides on the properties.

Tim Ecke, 16 Vista Way, commented on the Ridgeline protection area, which Mr. Moore said will be explored further as the discussions move forward. Mr. Ecke expressed a desire for the utilities to be undergrounded; he discussed issues with water pressure and asked if a water tank will be installed. He also discussed his concern that the trails would pass through homeowners' backyards.

Bill Appleton, 125 Ridgeway, discussed his concern that Ridgeway Road is not sufficiently wide at the top to create a fire road. He also expressed confusion about the number of houses that are planned in relation to the lot sizes, and Mr. Moore explained there is a separate parcel that is zoned differently from the main parcels and does not require 10 acres in order to be developed. Mr. Appleton also expressed concern that the project might contravene the Ridgeway Ordinance, and he discussed slide materials that he provided in relation to the path at the top of Ridgeway Road. Mr. Appleton discussed his concern that the prospective homes are too large.

Michael Mackintosh commented on the applicant's ability to develop his property in accordance with the zoning laws, and said that he had offered the property to the Town in 2006 as an asset, which it chose not to accept. Mr. Mackintosh said that the application seems to be a reasonable approach that should not have a high impact.

Lynn Yetta, 224 Marinda Drive, said she hoped that street lamps would not need to be installed and she discussed her concern that construction traffic will affect the street. Ms. Yetta commented on people who have trespassed and said she would prefer that people hike up the hill, rather than be able to drive and park on the hill. She said she likes the idea

of a road with fire hydrants to protect property, that she questions the Town's liability if exercise equipment installed on the land the applicant is proposing to donate. Ms. Yetta said she would prefer the name, Marinda Trail, is changed.

A resident discussed instability on the Wall property, landslides in the San Gabriel area, and he discussed a site that he thought might be more suitable for development.

Chair Kehrlein closed the public comment period.

Mr. Rothman said that he preferred the site to which the last speak referred and said that a final decision will be made on development once the soils analyses have been completed. He also discussed the trail going up Ridgeway, which he said is already existing and is not on his property. He discussed changing the trail for reasons he explained, and said they will be able to redirect the trail to accommodate streams.

Mr. Rothman commented on the road, noting that there are requirements for roads that service more than one house and he said that the Fire Department would like a turnaround to be built with a hydrant.

Mr. Rothman addressed the homeless issue and said that people who live on a property usually reduce the impact and the formalization of trails will make the area less enticing to homeless encampments. Mr. Rothman also addressed fire issues and he said that MMWD have confirmed a water tank and water mains exist.

In response to Vice-Chair Fragoso, Mr. Rothman confirmed they would be providing each property with a rainwater catchment system.

Mr. Rothman said that lighting will be considered as part of the submission documents and he discussed liability issues, noting that the owner of the property assumes liability, which he discussed.

Mr. Rothman noted that the dwellings in the area discussed by a member of the public are smaller than the homes that are proposed because they are on smaller lots and that their project will be less dense. He said they would not be building mansions on a 10-acre lot.

Mr. Rothman acknowledged that traffic is an issue and he noted that there will be traffic studies. He also discussed fire safety in relation to the Building Code and the Fire Department's water requirements. Mr. Rothman addressed habitats and he said that they would be building houses on denuded pads to reduce impacts and he acknowledged that the homes they are building will be expensive for reasons he discussed. He said that the trails and open space will benefit the area, and Mr. Rothman discussed the fees that they will be expected to pay for building costs in relation to comments made about taxes. Mr. Rothman also noted that they are required to underground utilities.

Chair Kehrlie asked Mr. Rothman to discuss whether the road that must be constructed

off Marinda Drive will allow the public access. In response, Mr. Rothman said he would need to consult with his partners and remarked that that there might be costs to the Town.

Commissioner Newton and Mr. Rothman discussed a portion of land close to the 14-acre site that Mr. Rothman owns, and he said they might be able to incorporate that land into a trail. Commissioner Newton identified a public access point to the trails that Mr. Rothman said they would not change.

In response to Mr. Moore, Mr. Rothman said they are still willing to sell the property for \$3M to a non-developer, in addition to the costs expended since the last meeting.

Vice-Chair Fragoso commented on the analyses and studies that Mr. Rothman still needs to conduct before more answers can be provided to questions raised by the public.

Mr. Moore thanked the audience for attending and Chair Kehrlie closed the discussions.

4. Consideration/discussion of whether or not to request smaller sized (11" x 17") development plans and/or electronic plans instead of full sized plan sets with planning applications.

Planning Director Moore asked the commissioners if they would accept 11" x 17" plans or electronic plans. Commissioner Gonzalez-Parber said she favored 18" x 24" plans, and Mr. Moore noted that staff would not be able to print that size and he commented on staff's desire to provide additional sets.

Vice-Chair Fragoso said that 11" x 17" plans would be suitable for most projects, in addition to an electronic format, and she also requested a full sized copy be made available at the hearings.

Following general discussion, there was consensus amongst the commissioners that 11" x 17" plans with an electronic copy in PDF format, published with the staff reports, and a full-sized set of plans being made available at the meetings, would be suitable.

COMMISSIONERS' COMMENTS AND REQUESTS

In response to Commissioner Gonzalez-Parber, Mr. Moore said that Commissioner Hamilton should be able to update the commissioners on the coordination of traffic lights on Sir Francis Drake, Butterfield and Willow Avenue.

In response to Chair Kehrlie, Mr. Moore said he would ask the Town Manager if the signals at Willow Avenue have changed.

Commissioner Green commented on his attendance of the planning commissioners conference in relation to the importance of traffic data. Mr. Moore said that a traffic forum will be scheduled, and that staff will provide data on the traffic signals on Sir Francis Drake, Willow and Butterfield.

Commissioner Green discussed the Transient Occupancy Tax in relation to Airbnb, which he said collects it on behalf of the Town, and he suggested that data is provided at the forum.

Vice-Chair Fragoso requested information from commissioners on the planning commissioners forum they attended. In response, Commissioner Green discussed monthly telephone forums and said he is able to provide materials.

Vice-Chair Fragoso announced the attendance of a member of Gray Water Action at the Planning Commission meeting on April 21st to discuss gray water systems and codes. Commissioner Green suggested inviting Councilmember Bragman to the meeting.

MINUTES

5. Minutes from the February 18th, 2016 meeting.

Action on the minutes was postponed to the meeting on April 21, 2016

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:15 p.m.

Respectfully submitted,

Joanne O'Hehir

DRAFT Town of Fairfax Regular Planning Commission Meeting Minutes
Fairfax Women's Club
Thursday, April 21, 2016

Call to Order/Roll Call:

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

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

COMMISSIONERS ABSENT: Laura Kehrlein

STAFF PRESENT: Jim Moore, Planning Director
Garrett Toy, Town Manager
Linda Neal, Principal Planner
Katy Wisinski, Assistant Town Attorney
Michelle Levinson, Permit Technician

APPROVAL OF AGENDA

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

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

ABSENT: Kehrlein

PRESENTATION

1. Presentation by Christina Berteau, from Greywater Action, on greywater systems and new building codes for water conservation

Ms. Christina Berteau, representing Greywater Action, gave a Powerpoint presentation that included the following: 1) A Survey of common greywater systems; 2) Greywater is...; 3) Blackwater is...; 4) Benefits of using greywater; 5) Residential water use; 6) Why has it taken so long? Valid concerns; 7) Ground rules for greywater re-use; 8) Ways to use greywater; 9) Simple landscape direct systems; 10) Simple pump systems.

Chair Fragoso stated she participated in the Environmental Forum of Marin's Master Class which next month will include a discussion on new codes implemented by the Marin Municipal Water District (MMWD). Planning Director Moore noted that MMWD adopted an ordinance related to greywater use that became effective on January 3rd.

The Commission thanked Ms. Berteau for her presentation.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Mr. Joshia Olivete, owner of Casa Manana, stated his business has provided healthy food and a community gather place in Fairfax for seventeen years. The business has been given 60 days to vacate its current location- the landlord wants to merge his space with the adjacent space (Yoga Mountain). He noted another tenant is also being evicted. He was concerned about the "Mill Valley-ization" of Fairfax and the influx of businesses that cater to weekend patrons. He asked the Commission to deny the use permit for the new business that would move into his space. Planning Director Moore stated staff would look into this matter right away.

Eric and Chris, Dominga Avenue, expressed support for Casa Manana. Chris was concerned about the gentrification of Fairfax.

Ms. Joy Hansen, Dominga Avenue, stated Casa Manana offers something for everyone. She stated she would hate for Fairfax to lose this business.

Mary Beth agreed with the previous comments and briefly discussed the contributions made to the community by Casa Manana.

Mr. Mason Holcomb expressed support for Casa Manana and stated rent control was not an unreasonable demand for Fairfax.

Mr. Rufus Bailey, Dominga Avenue, stated the business serves quality food at a reasonable price.

An individual stated Peri's Bar was holding a benefit show on June 12th for Casa Manana from 5:00 p.m. to midnight. The business deserves everyone's support.

Mr. Eric Warton expressed support for the business and stated the food is rejuvenating.

Consent Calendar

2. 55 Meernaa Avenue; Application #16-09: Request for a Use Permit to expand an existing, 940-square foot, 2 bedroom, 1 bathroom single-family residence by constructing a 63 square-foot closet adjacent to an existing bedroom, and install an 11-foot long retaining wall that would reach a maximum height of 4 feet; Assessor's Parcel No. 002-092-18; Residential Single-family RS 6 Zone District; Melann Mushet, applicants/owners; CEQA categorically exempt per Section 15303(e) and 15305(a)
3. 290 Tamalpais Road; Application #16-11: Request for a Ridgeline Scenic Corridor Permit to construct a 694-square foot addition and remodel an existing residence to include a second living unit on the lower level and a third bathroom, laundry room and storage area to the main unit; Assessor's Parcel No. 001-062-07; Residential Single-family RS 6 Zone; Leo den Ouden, Architect; Christopher Morrill, owner; CEQA categorically exempt Per Section 15301(e)(1).

Commissioner Newton referred to Consent Calendar item #1 and asked if Chapter 8.26 was a recent addition to the Town Code. Principal Planner Neal stated the reference should be to Chapter 8.32, Urban Runoff Pollution Prevention.

Commissioner Green referred to item #1 and stated the staff report notes that the structure includes a legal non-conforming duplex and he asked about the "non-conformance". Permit Technician Levinson stated the nonconformance was related to the lot size.

Commissioner Newton asked for the removal of Consent Calendar item #3.

M/s Hamilton/Green, Motion to remove Consent Calendar item #3 for discussion.
AYES: Ackerman, Gonzalez-Parber, Green, Hamilton, Newton, Chair Fragoso
ABSENT: Kehrlein

M/s Hamilton/Gonzalez-Parber, Motion to approve Consent Calendar item #2.
AYES: Ackerman, Gonzalez-Parber, Green, Hamilton, Newton
ABSENT: Kehrlein
ABSTAIN: Chair Fragoso

Acting Chair Green stated there a 10-day appeal period.

PUBLIC HEARING ITEMS

3. 290 Tamalpais Road; Application #16-11: Request for a Ridgeline Scenic Corridor Permit

to construct a 694-square foot addition and remodel an existing residence to include a second living unit on the lower level and a third bathroom, laundry room and storage area to the main unit: Assessor's Parcel No. 001-062-07; Residential Single-family RS 6 Zone; Leo den Ouden, Architect; Christopher Morrill, owner; CEQA categorically exempt Per Section 15301(e)(1).

Principal Planner Neal presented a staff report.

Commissioner Newton stated Town Code Section 17.06.040(a)(2) requires an applicant to include conclusions about the impacts to the views and the view corridor- she did not see this in the staff report.

Commissioner Green discussed some suggested language changes to the resolution. He would also like to see some cad drawings for this project.

Commissioner Newton stated she had a difficult time understanding what was being proposed and reconciling the staff report, the drawings, and the project description.

Chair Fragoso opened the public comment period. There were no comments. Chair Fragoso closed the public comment period.

Commissioner Newton recommended changes in the language of the resolution.

M/s Newton/Gonzalez-Parber, Motion to approve application #16-11, 290 Tamalpais Road, subject to the findings and conditions set forth in the staff report plus the changes in the language of the resolution as suggested by Commissioners Green and Newton.

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

ABSENT: Kehrlein

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

4. 88 Meernaa Avenue; Application #16-12; Request for a Use Permit to erect 2 storage sheds on a site developed with a duplex; Assessor's Parcel No. 002-082-07; Residential RD 5.5-7 Zone; Laura Kehrlein, Architect; Delia Reid and Tom Yarker, owners; CEQA categorically exempt, per Section 15301(1)(4), 15303(e), and 15305(a).

Chair Fragoso stated she would need to recuse herself from this item since she lives within 500 feet of the subject property. She left the dais.

Principal Planner Neal presented the staff report.

Commissioner Gonzalez-Parber asked if there was a window facing the adjacent house. Principal Planner Neal stated the floor plan shows three windows on that side.

Commissioner Newton had several questions about the resolution.

Vice Chair Green opened the public comment period.

Mr. Fred Devine, architect, stated he was not the designer but prepared the application. The applicant thought he had approval from the City but had only talked to the Building Official. The applicants are sympathetic to the neighbor's concerns. He noted the concern is exacerbated by the fact that the neighbor's house is on or over the property line.

Commissioner Newton asked about the dimensions and location of the previous shed. Mr. Devine stated it was larger. Ms. Delia Reed, owner, stated the previous shed was 11' X 13' and had a hipped roof. The new sheds are 10' X 12' with a peaked roof. She would be willing to make modifications to the windows on the back of the shed.

Commissioner Ackerman asked if there would be exterior lighting on the sheds. Ms. Reed stated there would be one exterior light by the door. Commissioner Ackerman asked if the sheds would be dark at night when not in use. Ms. Reed stated "yes".

An individual stated she lives on the side of the project that would be most effected by these sheds. She acknowledged her house is on the property line. She stated she installed windows on that side of the property to increase her view of the hills. The sheds would block her views and tower over her house.

An individual distributed photographs to the Commission depicting the old sheds.

Ms. Delana Arthur stated she lives across the street. The house on the adjacent property overlooks the applicant's property. The proposed sheds fit in with the aesthetics of the property and the location makes the most sense.

Ms. Carla Fossa, 132 Meernaa Avenue, stated the applicant has put a lot of time and money into her property. The proposed project is tasteful and fits within the character of the neighborhood.

Commissioner Newton asked the applicant about moving the second shed five feet away from the existing property line. Ms. Reed stated the neighbor's concerns are with the shed that has already been erected. It would be very difficult to find an alternate location for the second shed since there is a large drainage trough that runs through the back yard. They also have a sophisticated irrigation system.

Commissioner Gonzalez-Parber asked if the sheds could be placed where the coops are currently located. Ms. Reed stated there was not enough space.

Vice Chair Green asked about the purpose of the raised wood structure/retaining wall. Ms. Reed stated there is a slight grade difference from the lawn to the gate and the shed needs to be on a completely level site.

Vice Chair Green closed the public comment period.

Vice Chair Green stated using a color other than white could lessen the impact. He has no issues with the project.

Commissioner Newton noted the applicant plans to install climbing vines.

Commissioner Hamilton stated structures near property lines pose privacy issues that can be mitigated by screening, plants, trellises, etc. The Town Codes attempt to strike a balance between the use and enjoyment of two adjoining properties. The sheds comply with Town regulations in terms of height, setbacks, etc.

Commissioner Ackerman agreed with the comments made by Commissioner Hamilton. This application meets all the requirements. He could support the project.

Vice Chair Green agreed with those comments.

Commissioner Gonzalez-Parber stated it was unfortunate that the sheds are so close to the neighboring property. It would help if the three windows on the backside could be relocated. Ms. Reed stated she could block the windows on the shed that is already built. She would work something out with the neighbors.

M/s Ackerman/Hamilton, Motion to approve application #16-12, 88 Meernaa Avenue, subject to the findings and conditions set forth in the staff report.

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

ABSENT: Kehrlein

RECUSED: Chair Fragoso

Vice Chair Green stated there was a 10-day appeal period.

Chair Fragoso returned to the dais.

5. 288 Bolinas Road; Application #16-13: Request for a Hill Area Residential Development Permit, Excavation Permit and Variances to construct, expand and convert a 1,743 square-foot, 2 unit residential structure into a 2,007-square-foot, single-family residence with a 2 car garage. Project constitutes a 50% remodel under Town Code Section 17.008.020; Assessor's Parcel No. 002-022-19; Residential Single-family RS-6 Zone; Rich Rushton, Architect; Justin Morgan, owner; CEQA categorically exempt per Section 15301(e)(1), 15303(a) and 15305(a).

Vice Chair Green left the meeting at 9:20 p.m.

Commissioner Newton asked if there was a square footage maximum that would make a unit "affordable" (i.e. under 500 square feet). Planning Director Moore stated "no"- they rely on income levels established by the Federal government. There are no restrictive covenants on the unit as a rental property. However, a smaller unit would command less rent.

Commissioner Newton had a question about the parking requirements for "junior" second units. Planning Director Moore stated no additional parking would be required if the house meets the parking standards when it was built. Commissioner Ackerman asked if the present house with the second unit as it exists is deficient in parking. Planning Director Moore stated "yes, according to the current code". However, the proposal would meet the parking for a single-family house, with or without the "junior" second unit.

Chair Fragoso opened the public comment period.

Mr. Art Chartock, architect, stated this is an old existing duplex that needs work. They would like to rebuild it and have it conform to the existing aesthetics. The proposal would take better advantage of views, location, and energy savings. The owner would like to create a single-family residence but is willing to include a "junior" second unit if the Commission insists.

Commissioner Gonzalez-Parber noted the garage would encroach into the public right-of-way in an area with a lot of traffic and she asked about any proposed safety features. Mr. Chartock stated it would be truncated with some extra space. The existing condition is difficult and people would need to be careful coming out of that garage. Commissioner Gonzalez-Parber asked that something be done on a design level or some type of signage be installed. Planning Director Moore stated staff would talk to the Police Chief and Town Manager who are on the Traffic Committee.

Chair Fragoso asked how much of the garage and/or apron was on the right-of-way. Principal Planner Neal stated about five feet. Chair Fragoso asked if there would be a sidewalk. Principal Planner Neal stated "no".

Ms. Laura Barber, Bolinas Road, agreed that the traffic in that area was problematic. She was comfortable with a two-car garage. She stated a second unit could result in the addition of two cars. When the house sold the new owners poured concrete onto her property and she would like to be made aware of everything that is going on. She did not want her property to be a staging area for the construction. Chair Fragoso stated the staff report notes that certain improvements that cross property lines (decks, etc.) would be removed as part of the proposed project.

Mr. Vladimir Jagal, civil engineer, stated the garage area would be used for construction staging. He agreed that the traffic on Bolinas Road was not a good situation but the new garage will be moved towards the west and improve the current conditions.

Chair Fragoso closed the public comment period.

Commissioner Newton stated the drawings should be revised to include a "junior" second unit in an effort to increase affordable housing in Fairfax. They are losing a "unit" by the conversion of this duplex.

Commissioner Hamilton referred to Page A4.2 and noted this would require a sink and a wet bar in one of the bedrooms.

Commissioner Gonzalez-Parber stated including a "junior" second unit should be at the owner's discretion and should not be a requirement. This would be a dangerous precedent to set.

Chair Fragoso agreed with Commissioner Gonzalez-Parber. The owners might choose to add this at a later date. She likes the plans and thought the civil work was good. She could approve it "as is".

Commissioner Ackerman stated "junior" second units add flexibility to a home. He felt in this instance it should be at the owner's discretion.

M/s Hamilton/Gonzalez-Parber, Motion to approve application #16-13, 288 Bolinas Road, subject to the findings and conditions set forth in the staff report plus the requirement that they stub out the plumbing to allow for a "junior" second unit in the future. Staff shall check with the Safety Committee to see if anything could be done to improve the safety for vehicles exiting the garage.

AYES: Ackerman, Gonzalez-Parber, Hamilton, Chair Fragoso

NOES: Newton

ABSENT: Kehrlein, Vice Chair Green

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

The Commission took a 10-minute break at 10:15 p.m.

DISCUSSION ITEMS

6. Discussion/consideration of results of Town on-line forum regarding short term/vacation rentals (e.g. Airbnb) and discussion of potential standards for short term/vacation rentals

Chair Fragoso stated this item would be continued to the next meeting.

7. Discussion/consideration of results of Town on-line forum regarding medical marijuana delivery standards and discussion of potential standards for Medical Marijuana Delivery

Town Manager Toy presented a staff report.

Commissioner Hamilton asked for clarification regarding the "in-town" vs. out-of-town" regulation issues. Town Manager Toy stated the issue was how to regulate and enforce an out of dispensary making deliveries into Fairfax.

Chair Fragoso asked if a dispensary located in Fairfax could make out-of-town deliveries. In addition, could individuals have deliveries made at any location. Town Manager Toy stated a patient could probably have a delivery made at any location.

Commissioner Hamilton had questions about enforcement of deliveries. Town Manager Toy stated enforcement would be difficult but staff would respond to complaints.

Chair Fragoso had questions about the limits to the amount of cash or product and stated there seemed to be a discrepancy to the number of ounces vs. the dollars. Commissioner Newton noted not everyone would pay with cash. Commissioner Hamilton stated it should be regulated by the number of ounces or by the value of the product on board.

Commissioner Hamilton stated it would be helpful if staff included a list of reasons and rationale for any regulations.

Chair Fragoso opened the public comment period.

Ms. Lynette Shaw, representing the Marin Alliance for Medical Marijuana, stated delivery standards put in place in the past killed the delivery service for the Marin Alliance. The rules were too onerous. There are 32 delivery services currently coming in to Fairfax, from 9:00 a.m. to 10:00 p.m. There will not be a "brick and mortar" dispensary in Fairfax for a long time.

Mr. Ryan Skelski, Executive Director of Marin Patient Access, stated there were a lot of hurdles to overcome if a business tries to comply with State regulations. There are extremely high taxes and the business cannot write off the "cost of goods sold" because cannabis is a controlled substance. These businesses have higher costs due liability issues, Worker's Compensation costs, attorney expenses, testing fees, etc. He is in favor of responsible regulations.

Mr. Omar Figueroa, Medical Cannabis lawyer, stated he has been fighting for freedom and equal rights for medical cannabis patients, farmers, and providers since 1998. He supports sound policies for delivery services and is against over-regulations. Hours for delivery service should be expanded and deliveries should be permitted in any private area. He was against requiring two people per delivery vehicle.

Mr. James Clyer, Member Services Manager Yerba Buena (delivery service), stated there is a high degree of self-regulation and self-policing already in place.

Chair Fragoso asked if the discussion included not only dispensaries making deliveries but also growers delivering to a dispensary. Planning Director Moore stated "no"- there is a ban on commercial cultivation. Commissioner Newton asked if they could regulate deliveries from cultivators outside of Fairfax to a dispensary in Fairfax. Town Manager Toy stated this has not yet been discussed.

Mr. Patrick Crane, Cultivation Specialist for Marin Patient Access, stated they are a delivery service based out of Oakland and they deal with many of the issues being discussed. Deliveries should be allowed after 5:00 p.m. and should be allowed in private areas. He did not support the idea of requiring two delivery people per vehicle nor limiting the number of vehicles per delivery service.

Mr. Anthony Pizareli, representing Sharefax, agreed with many of the comments made. There is a market for this medicine and patients have a right to safe access.

Chair Fragoso closed the public comment period.

Planning Director Moore reiterated the comments that were made and stated staff has good direction.

MINUTES

8. Minutes from the March 17, 2016 regular meeting and the February 25, 2016 Special meeting

Chair Fragoso stated the approval of these minutes would be continued to the next meeting.

PLANNING DIRECTOR'S REPORT

Planning Director Moore stated staff is moving forward with the three workshops regarding the development of the Draft Town Center Plan. He will send out a confirmation about the dates. These are Council driven workshops but it will be noticed as a Planning Commission meeting and would include participation from the Affordable Housing Committee and the General Plan Implementation Committee (GPIC). Staff received the first over-the-counter "junior" second unit application- he will be signing off on it tomorrow.

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Hamilton asked about the status of the former Chevron Gas Station site. Planning Director Moore stated he met with the owner this morning and a new application has been submitted. The plan is to remove the old gas station.

Commissioner Gonzalez-Parber asked about the status of the traffic light study (synchronizing the lights). Town Manager Toy stated the consultants looked at it and decided it could not be done due to the timing between the signals. Planning Director Moore stated he would report back next month.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:30 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary

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

Call to Order/Roll Call:

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

COMMISSIONERS PRESENT: Bruce Ackerman
 Norma Fragoso
 Shelley Hamilton
 Laura Kehrlin (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 Kehrlin

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 Kehrlin 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