

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMEN'S CLUB
THURSDAY, SEPTEMBER 19, 2019

Call to Order/Roll Call:

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

Commissioners Present: Norma Fragoso
Esther Gonzalez-Parber
Philip Green
Laura Kehrlein
Mimi Newton
Cindy Swift (Chair)

Commissioners Absent: Michele Rodriguez

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner

APPROVAL OF AGENDA

M/s, Kehrlein/Green, motion to approve the agenda.

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

ABSENT: Rodriguez

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. 402 Scenic Road; Application #19-09

Continued consideration of a request for a Use Permit, Setback Variance and Parking Variance to legalize bedroom and storage room additions and for proposed bathroom and deck to an existing single-family residence; Assessor's Parcel No. 001-051-22; Residential Single Family RS-6 Zone District; Leo den Ouden, architect, Matthew and Jennifer MacDonald, owners; CEQA categorically exempt per Section 15301(e)(2)(A).

Principal Planner Neal presented the staff report. She made the following corrections to the resolution: 1) On page 5, Condition #13 shall read: "An... application and any new *exterior lighting* shall use..."; 2) On page 7, Condition #31 shall read: "The proposed... *only and providing an access and egress deck for the lower bedroom that meets only the minimum requirements required by the Building Code for width*".

Commissioner Fragoso asked what the minimum width requirement was for the lower deck. Principal Planner Neal stated she thought it was four feet.

Commissioner Green stated the plans did not include the 189 square foot deck. Principal Planner Neal stated they were proposing a 275 square foot deck. Commissioner Newton stated this was referred to in the first "Whereas" on page 3.

Commissioner Newton asked for clarification on the table in the staff report regarding setbacks. Principal Planner Neal stated the upper deck was already in the setback further than the proposed deck so the setbacks were not changing. The lower deck will not extend out further than the existing deck.

Commissioner Newton referred to page 5 of the staff report regarding the Parking Variance and stated Town Code Section 17.016.040(C) has three requirements in terms of the findings. She asked staff to opine on whether or not the work would increase the non-conformity. Principal Planner Neal stated she did not think it would increase the non-conformity since it would remain a two-bedroom house.

Commissioner Newton asked staff if they talked to the applicant about reducing the size of the lower deck. Principal Planner Neal stated "yes" and advised that the existing upper deck is already comparable to what other homes in the area have".

Commissioner Fragoso asked about the dimension of the lower deck from the front of the bedroom doors to the edge of the deck. Principal Planner Neal stated it was 7.5 feet.

Commissioner Gonzalez-Parber stated she could not understand the application because she thought it was incomplete. She wanted to see an elevation of the back to understand the stairs. She could not understand what they were trying to legalize and why there was no demolition plan. Principal Planner Neal stated that when originally constructed there was no second lower floor- it was just a one story house. They are legalizing the internal stairway, the bedroom under the house, the existing storage area under the carport, and are proposing a second bathroom and rear deck to access the storage and the lower bedroom. The storage under the carport was included in the Building Permit when they redid the carport but it went through without Planning Department review. She clarified the 50% remodel definition and how it can apply to these small cottages. She noted this is not a huge project

Commissioner Fragoso asked if the lower bedroom could be an accessory dwelling unit (ADU). Principal Planner indicated the site is located more than a half mile from a bus stop so to convert the lower floor to an accessory dwelling unit the applicant would need to provide a fourth parking space. They would not need additional parking for a junior accessory dwelling unit (conversion of an existing legal bedroom).

Chair Swift opened the Public Hearing.

Mr. Matthew MacDonald, owner, made the following comments:

- He distributed some photographs. One showed the existing lower deck in 2007 that was rotting and was removed. The footings still exist.
- The lower level of the house was there when he moved in- it was an unconditioned storage area that was accessed from the outside
- They mistakenly moved forward without thinking of the permitting process.
- The downstairs bedroom was there at the time they did the remodel of the carport several years ago.
- The lower bedroom is accessed through the stairway in the upper great room of the house. It is an open stairwell. They are not intending to use it as a separate unit.

Commissioner Newton asked if they are going to have a shorter deck in accordance with what staff recommends. Mr. MacDonald stated "yes". The upper floor sticks out two feet further. The deck itself would be two feet shorter in depth than the upper floor deck which would extend two feet beyond the lower deck. The existing grade beams are in place for the upper deck along with posts. They are open to making something smaller.

Chair Swift referred to the large trees that are close to the stairs and asked if there were plans for altering or removing the trees. Mr. MacDonald stated "no". Chair Swift asked if the construction would impact the trees. Mr. MacDonald stated "no- this was discussed at length with our architect".

Chair Swift asked about railings, guard rails, or lattice for the stairs on the western side. Mr. MacDonald stated the upper deck has a very simple railing- wood top piece with aluminum posts and stainless steel cables and the stair railing will match the deck railings. The design is open and simple.

Chair Swift asked about a lighting plan. Mr. MacDonald stated his architect could address this question.

Mr. Leo den Ouden, architect, made the following comments:

- There would be low voltage lighting for the small vertical posts. It would be pointed downward and slightly outward onto the deck. It is installed on every other post.
- The lower bedroom walls would have cylinder, downward lighting.
- He referred to the deck and stated that one of the reasons for proposing a larger lower deck was that he did not want to create any more drilled piers. He would add beams onto the inside of the existing posts and this would minimize disturbance to the site.
- The plan minimizes the grading and avoids the tree while creating an eastern egress

Commissioner Newton asked if moving the deck back a couple of feet would push the stairway into the tree. Mr. den Ouden stated "yes".

Chair Swift closed the Public Hearing.

Commissioner Green provided the following comment:

- The planning process is not about fees but rather making sure a project is done correctly.
- The project is fine.
- He supported a 189 square foot limit on the deck.
- He referred to the Parking Variance and stated he supported the two smaller spaces.
- They could consider a circular staircase or something similar to avoid interfering with the tree.

Commissioner Kehrlein provided the following comments:

- She supported the staff recommendation to reduce the deck.
- The lower deck has more impact to the setbacks because it is closer to the grade.
- She was not sure why the stairway had to be in the proposed location- there was more room on the opposite end.

Commissioner Gonzalez-Parber provided the following comments:

- This is a project that will have compromises due to the atypical conditions, some of which were inherited.
- She supported what they were trying to do but needed more clarity.
- She wanted to see the deck and stair changes reflected in the plans.
- She is in favor of preserving trees.

- She asked about the timeline in terms of the Permit Streamlining Act. Principal Planner Neal stated the applicant would have to sign a waiver to the time limit and agree to an extension of time.

Chair Swift provided the following comment:

- She supports staff's recommendation to have a four-foot bottom deck.

Commissioner Newton provided the following comments:

- The applicant is willing to move forward with the reduced deck size but there is an issue about the stairwell.
- She asked if they could come up with a different stair design that would not impact the tree.

Commissioner Fragoso provided the following comments:

- She is leaning towards the staff's recommendation of a narrower deck.
- Her concern is that the plans are not clear.
- One of the problems with this property is that the Town has never known what was there or had a good set of plans.
- She would like to see plans that are reflective of what is being built.
- She has no problem with the bathroom and the new bedroom.

Chair Swift provided the following comments:

- The Commission was in agreement with the staff recommendation about the lower deck.
- She asked if the Commission would agree to the applicant and staff addressing the lower deck, the stairs, and the tree. She would feel comfortable with this.

Commissioner Newton provided the following comment:

- She has a concern about delegating tree related stuff and whether or not there is the need to require an arborist.

Commissioner Green provided the following comments:

- There are alternative designs for the stairway.
- He was not sure about leaving this up to staff.

Principal Planner Neal stated there is a way to design the stairs so they do not impact the tree. The Commission could include a condition that a certified arborist do a study on the tree and make recommendations on how to maintain its health during construction. This would be submitted with the Building Permit application.

Commissioner Fragoso provided the following comments:

- She is concerned about the existing foundation since they do not know when it was put in and it is not on the plans.
- She would like to see a completed set of plans of what is built and what is proposed to be built, with dimensions, at the building permit stage. Principal Planner Neal stated Condition #1 would include: "Fully dimensioned as built plans and elevations shall be submitted with the Building Permit application for the proposed new construction". Commissioner Green stated he would like to add: "However, due to this property's situation and prior development and for this permit only we approve the resolution based on the plans as modified".

Commissioner Kehrlein, Green, and Chair Swift provided the following comments:

- They are comfortable with staff approving the lower deck.

Planning Director Berto stated staff could refer the application to the Town Arborist who can recommend certain design steps and a punch list.

Commissioner Gonzalez-Parber provided the following comments:

- They are setting precedence in terms of Design Review and what they are requiring other applicants to provide and what is being approved tonight.
- The plans were not complete and do not meet the minimum standard. There is too much missing.
- She would like to see a demolition plan, the elevation from the back, what the stairs will look like.

Chair Swift pointed out that the items being requested by Commissioner Gonzalez-Parber were not requested at the August 15, 2019 meeting because Commissioner Gonzalez-Parber was not in attendance at that hearing.

Commissioner Kehrlein provided the following comments:

- She is comfortable with approving the project with the changes that staff would review.
- There should be something in the record documenting the existing conditions- this could be added to the resolution.

Commissioner Newton provided the following comments:

- She is comfortable allowing staff to make the determination as to the deck size in the final building approval process and seek the advice of the Town Arborist.
- She had a question about the exterior lighting plan. Principal Planner Neal stated they have indicated the lighting will shine downward and the plan will be reviewed by the Building Inspector. Commissioner Green stated they should specify LED lights.
- She referred to Condition #8 and stated it should read: "Any changes....of Application #19-09 *other than as set forth in paragraph #1.*"
- She asked Principal Planner Neal to recite the changes to Condition #1. Principal Planner read the suggested change: "Fully dimensioned as built plans and exterior elevations of all sides of the house shall be submitted with the Building Permit. However, due to the property situation and the site conditions, the plans provided with the recommended changes by the Planning Commission are adequate to support the Commission's findings".

Commissioner Green provided the following comment:

- Condition #14 should be added that addresses the eastern stairs: "The eastern stairs shall be redesigned or repositioned to avoid impacts to the Oak tree and the applicant submit plans to the Town Arborist for review if staff determines the redesign or repositioning may impact the tree".

Commissioner Newton provided the following comment:

- She asked if they would need the applicant's agreement that the application might come back to the Commission. Planning Director Berto stated it was a condition of approval- the redesign could go back to the Commission.

M/s, Newton/ Green, motion to approve Resolution No. 2019-10 with the modifications made by Principal Planner Neal, Commissioners Green and Newton to Condition #1, Condition #8, Condition #13, Condition #31, and the addition of Condition #14.

AYES: Green, Kehrlein, Newton, Chair Swift

ABSTAIN: Fragoso, Gonzalez-Parber

ABSENT: Rodriguez

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

2. 102 Marinda Drive; Application # 19-13

Continued consideration of a request for an exception to the Sign Ordinance regulations for the re-use of an existing free-standing sign to erect a 24-square foot sign depicting the

Ross Valley Charter School name, logo, and grades served and a 6-square foot sign depicting the Kinderblast Preschool name and logo; Assessor's Parcel No. 001-183-18; Planned Development PDD Zone; Ross Valley Charter School and Kinderblast Preschool, applicants, St. Rita Church, owner; CEQA categorically exempt per Section 15301(g).

Principal Planner Neal presented the staff report. She noted the applicant had submitted the additional drawings requested by the Commission at their August meeting. rough in another set of drawings.

Commissioner Fragoso asked staff if they had a photograph of the existing St. Rita Church sign. Commissioner Gonzalez-Parber asked staff if they had a copy of the original proposal. Principal Planner Neal handed the file with the requested sign elevation to the Commission.

Commissioner Newton asked if the Kinderblast Preschool sign was part of the approval. Principal Planner Neal stated "yes".

Commissioner Green stated that sign would be difficult to see if it is covered in bushes. Principal Planner Neal stated the applicant would trim the bushes.

Commissioner Fragoso asked if the frame would remain the same. Principal Planner Neal stated the applicant would need to answer that question.

Chair Swift opened the Public Hearing.

Mr. Luke Duchene, Director of the Ross Valley Charter, made the following comments:

- They tried to answer all the questions from the last meeting.
- There is a sign for the church and a temporary banner where the former school sign was located.
- The school sign would have a frame.
- There are two posts that remain from the old school sign that would be utilized.
- The wooden frame is no longer there.

Ms. Sarah Toombsberry made the following comments:

- She owns a house close to the church.
- The church has three or four tenants and she noted if they give a size variance to one of the tenants it would open the door to more. Principal Planner Neal stated they were not requesting an exception to the size limit but rather an exception to the location.

Ms. Sharon Sager, Board Chair of RVC, made the following comments:

- RVC and Kinderblast are renting the entire back building.
- The only other space is church property.

Chair Swift closed the Public Hearing.

Commissioner Green provided the following comment:

- From a Design Review perspective the old framing idea was a good one. It matches the roof line of the church.
- He suggested the use of a Redwood frame.
- The school needs a sign.
- He wanted to make sure the bushes were maintained so the pre-school sign could be seen.

Commissioner Fragoso provided the following comments:

- She agreed with Commissioner Green's comments about the frame.
- She appreciates the redesign.
- The applicants took the Commission's comments to heart.

Commissioner Gonzalez-Parber provided the following comments:

- She supported the idea of a frame- it did not need to be brown.
- She appreciated the revisions.

Commissioner Newton provided the following comments:

- She appreciated the redesign.
- She has no concerns.

Commissioner Kehrlein provided the following comments:

- She was glad staff could locate the original application so she could see what was originally approved.
- She originally thought adding the Kinderblast sign might be too much but the 2 signs together will have less area than the area of the originally approved St. Rita sign and read-a-board.
- A frame or some type of border detail would enhance the sign.
- She liked the revisions.
- She would like the dimensions for the Kinderblast sign documented. Principal Planner Neal stated staff would make sure the dimensions were on the Building Permit submittal.

Chair Swift provided the following comment:

- She could approve the application as submitted.

Commissioner Green provided the following comments:

- He wanted to make sure the record reflected the dimensions of the top and bottom sign. Principal Planner Neal stated the square footages are included in the first "Whereas" of the resolution.
- The last "Whereas" could include the following language: "Subject to the applicant's compliance with the foregoing and the following conditions".

M/s, Green/Kehrlein, motion to approve Resolution No. 2019-16 with Commissioner Green's modification to the last "Whereas".

AYES: Gonzalez-Parber, Green, Kehrlein, Newton, Chair Swift

ABSTAIN: Fragoso

ABSENT: Rodriguez

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

The Commission took a 10-minute break at 9:00 p.m.

Discussion Items

- 3. Discussion/Consideration of possible amendments to the Zoning Ordinance to include requirements of the Hill Area Residential Development Ordinance in the Planned Development PDD Zone District regulations; CEQA exempt per sections 15060(c)(2), 15061(b)(3).**

Planning Director Berto presented the staff report.

Commissioner Green referred to Attachment D, "PDD Development Permit Requirements", under "Master Development Requirements", and stated he would like to add the following: "Survey of the property showing existing features *by a licensed surveyor*". He referred to Section 17.072.020, (B) "Applicability" and asked that the following be added at the end: "...Rudolph G., 1976, *which is incorporated herein by this reference*".

Commissioner Newton asked if staff located the CD of the old maps. Principal Planner Neal stated there was a CD but she did not think it contained all the maps. Commissioner Newton stated she had concerns about replacing the Landslide Hazard Zone Map prior to a full evaluation by the Planning Commission of the map replacing it.

Chair Swift noted the RM-S Zone is not listed. For consistency they should divide the UR Zone into UR7 or UR10. She asked if staff looked at all the individual zoning sections and married those up with what is being done with this one. They all have language about the HRD Permit. Planning Director Berto stated staff would double check but he thought they were in good shape.

Chair Swift opened the Public Hearing.

There were no comments.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- They should not dispense with the historical General Plan Maps until they have replacements.
- She would like to pursue amending the General Plan to add those maps back in as appendices or digital attachments.
- The Town should take advantage of new technologies.
- She would like to keep the reference to the Open Space Map referring to the year of the General Plan.

Commissioner Green provided the following comments:

- He agreed that they should not dispense with historical maps.
- He referred to Section 17.112.020 (A), "General Requirements" and stated he would like to add the following: "...corporations, partnerships, or LLCs".

Commissioner Kehrlein provided the following comments:

- The Salem Howes Maps are the standards used in the County.
- She asked if it was possible for a property with a recent slide to not show up on the Slope Stability Map. Principal Planner Neal stated it would probably show up as "unstable".

Chair Swift noted this would be coming back to the Commission.

4. Discussion of Planning Work Program.

Planning Director Berto presented the staff report.

Commissioner Fragoso asked when the scoping session for the Marinda Heights (a.k.a. Wall Property) Project would be scheduled. Planning Director Berto stated staff would try to schedule it for November.

Commissioner Fragoso asked if staff could prepare a "cheat sheet" of the most relevant housing regulations that were recently implemented. Chair Swift stated the League of California Cities probably has some information.

Commissioner Green asked about the status of the Regional Housing Needs Assessment (RHNA) requirements. Planning Director Berto stated Fairfax is in better shape than any other jurisdiction in Marin.

Chair Swift asked if the business process for cannabis would come back to the Commission for review. Planning Director Berto stated it would go to the Council in October. Commissioner Newton

asked if a map of the buffer zones was prepared and adopted. Planning Director Berto stated “yes, there were two maps”.

Chair Swift asked about legislation that is changing accessory dwelling units (ADU's). Planning Director Berto stated he was not on top of this but he would consult with the attorney.

Chair Swift opened the Public Hearing.

Ms. Stephanie Hellman, Fairfax, made the following comment:

- She asked about the grant related to ADU's. Planning Director Berto discussed the consulting firm that would be developing the objective standards “workbook” for the various jurisdictions.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She was not suggesting additional work in terms of the GIS mapping until staff has had a chance to evaluate the existing maps.
- They need to come up with a “game plan” on amending the General Plan to add the historic maps as an attachment.

Commissioner Green provided the following comment:

- Massachusetts does not have cannabis buffer zones and he saw no problem associated with a dispensary located next to a school.

Planning Director Berto thanked the Commission for the comments. This will be an on-going topic.

5. Discussion/consideration of amending the General Plan Land Use Designation and rezoning the Town-owned properties that are currently residentially designated or zoned, to OA (Open Area), PD (Public Domain), or Public/Private Open Space.

Planning Director Berto presented the staff report.

Chair Swift had questions about the process for amending the General Plan.

Chair Swift had questions about how the Public Domain designations are treated with respect to State Law. She asked about the differences between the Public Domain and Open Area designations. She noted there were no building site requirements for the Public Domain zone.

Chair Swift opened the Public Hearing.

There were no comments.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comment:

- She cannot tell which properties this pertains to but if it is residential zones it might be an opportunity to provide some affordable housing.

Commissioner Newton provided the following comments:

- Many of these properties are dedicated as open space.
- People have donated funds to the Town for open space- some of the land that is undeveloped and owned by the Town should not be re-designated for affordable housing.

Minutes

6. Minutes from the August 15, 2019 Commission meetings

M/s, Fragoso/Newton, motion to approve the August 15, 2019 minutes as corrected.

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

ABSTAIN: Green

ABSENT: Rodriguez

Planning Director's Report

Planning Director Berto reported staff will be working on scheduling a workshop for the proposed project for the Pancho Villa site.

Commissioner Comments and Requests

Commissioner Newton and Green thanked staff for their efforts in handling a large workload.

Commissioner Green thanked the Town Council for its recent recognition of the Commission.

Chair Swift thanked staff for uploading the previous minutes to the Town Website.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary