

FAIRFAX PLANNING COMMISSION MEETING MINUTES
FAIRFAX WOMEN'S CLUB
THURSDAY, JANUARY 16, 2020

Call to Order/Roll Call:

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

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

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

APPROVAL OF AGENDA

M/s, Swift/Newton, motion to approve the agenda.

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. 6, 8, 10, and 12 School Street Plaza; Application #19-15

Continued consideration of a request for a Conditional Use Permit and Design Review Permit for a minor expansion to building #8 and conversion of the following 14 commercial suites into live-work units: Bldg. 6: #110; Bldg. 8: #'s 8A2, 8A3, 8A4, 8B and 8D; Bldg. 10: #'s 10C, 10D, and 10E; Bldg. 12: #'s 12B-1, 12C-1, 12D-1, and 12D-2; Assessor's Parcel No. 002-112-13; Limited Commercial CL Zone; Fred Ezazi, applicant/owner; CEQA categorically Exempt per Section 15301(a) and (e)(1) and 15303(c).

Commissioner Newton recused herself from this item due to personal interest.

Principal Planner Neal presented the staff report. Subsequent to the December meeting, the applicant agreed to a waiver of the Permit Streamlining Act and extension of the project review period. Staff is recommending that the Commission mutually agree to the continuance for up to 90 days. She noted a few corrections to the staff report: 1) The application is #19-15 (not #19-14); 2) There is no Fence Height Variance request.

Commissioner Swift noted the front page of the staff report should indicate an increase to 14 units.

Chair Green asked if the continuance pertained to the issue of lighting and location of bathrooms. Principal Planner Neal stated “yes”.

Commissioner Gonzalez-Parber had a question about reopening of the original school stairway that leads to the corner of Broadway and Merwin Avenue. Principal Planner Neal stated staff was working on a solution that is acceptable to the Town and the applicant. Chair Green stated the intent was to provide ingress/egress in the event of an emergency.

Commissioner Kehrlein asked if there is a list of items that the applicant needs to address at the next hearing. Principal Planner Neal stated they are included in the Resolution of Denial. Commissioner Kehrlein asked if it was clear which units are currently occupied as live/work and which units are proposed to be occupied as live/work. Principal Planner Neal stated the applicant will address this question.

Commissioner Rodriguez cautioned there were a number of policy issues that the Commission needs to discuss. The Town does not have an Inclusionary Housing Ordinance or Live/Work Ordinance. The Commission seems to be trying to “piece something together”. She is leery about continuing the item. Planning Director Berto stated it is better for the Commission to discuss whatever items they want to see and whether or not they are resolved. These global issues could be explored at a future meeting.

Commissioner Swift agreed with the comments made by Commissioner Rodriguez. She is in favor of a continuance for up to 90 days but would like to address some of the global issues within the framework of the application.

Chair Green agreed with Commissioners Rodriguez and Swift. The Commission will need to discuss a Live/Work Ordinance soon and this will be a learning experience for that discussion. He is leaning towards a continuance.

Commissioner Fragoso stated she remains concerned about existing units that are being worked on that do not meet code and have health and safety issues. Planning Director Berto stated staff is satisfied that the applicant has addressed those concerns. Commissioner Fragoso had a question about the General Plan designation of 9 residential units vs. 15 live/work units. Principal Planner Neal stated this is being processed under Limited Commercial Zoning which allows residential with a Use Permit. She believes the Planning Commission can approve the 15 units. Commissioner Rodriguez stated they need to look at what that yields in terms of density in comparison to similar types of surrounding properties or other higher density (how do the 9 or the 15 units translate?).

Chair Green stated there was another health and safety issue regarding the presence of lead paint or asbestos. Principal Planner Neal stated they applicant has agreed to provide a report.

Chair Green asked about the name on the title and whether or not it is an LLC. Principal Planner Neal stated the applicant has agreed to clarify this.

Commissioner Gonzalez-Parber asked if they should look at Inclusionary Housing and Live/Work Ordinances from other jurisdictions. Chair Green stated that was a good idea. They are laying the foundation for a future ordinance via this project.

Commissioner Fragoso stated she was not sure this would set a precedent for other live/work units moving forward. She would like the next staff report to indicate where their decision is in agreement with other ordinances.

Chair Green stated the resolution approving this project should specify this is a unique project that was already under construction and not a live/work situation starting from the “ground up”.

Commissioner Rodriguez stated the applicant was not present, has not removed the illegal fencing, has not opened up the pedestrian access, and has not improved the quality of the design. Staff should initiate code enforcement.

Commissioner Rodriguez made a motion to approve Resolution No. 2019-17. There was no second and the motion failed.

Commissioner Gonzalez-Parber stated the applicant has tried to correct the situation. This is an opportunity to do something special and unique in Fairfax and they need to find a solution.

Commissioner Rodriguez asked about the new law pertaining to the number of meetings an application must go through. Planning Director Berto stated it does not apply to this situation.

M/s, Kehrlein/Swift, motion to continue Application #19-15 to the February 20, 2020 meeting to allow the applicant to respond to the Commission concerns.

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

NOES: Rodriguez

RECUSED: Newton

Commissioner Newton returned to the meeting.

DISCUSSION ITEMS

2. Continued discussion on ADU/JADU issues and options

Planning Director Berto presented the staff report.

Chair Green stated the fire safety issue is the biggest concern from a practical level.

Commissioner Gonzalez-Parber asked if the Town had the authority to implement a pre-application process for these projects. Planning Director Berto stated they could but the State’s intent is to streamline the process. Commissioner Gonzalez-Parber stated she was trying to figure out how to lighten staff’s workload processing applications that might “go nowhere”. Residents should be educated about the process in advance. She discussed the costs of ADU’s, remodeling, upgrading structures, etc.

Commissioner Fragoso referred to the issue of emergency evacuations and asked if the Town could look at making some streets one-way to facilitate emergency vehicles.

Commissioner Swift stated she listened to the tape of the last Council meeting and noted there was some confusion about ADU’s and short-term rentals. She referred to the 2007 CalFire Map and noted it needed to be updated. The prior ADU/JADU ordinance included a prohibition of rental of ADU’s and JADU’s for period of less than 30 days.

Commissioner Rodriguez asked staff about the Commission’s role and whether or not they want to initiate an amendment to the Parking Ordinance, etc. Planning Director Berto stated the legislative solutions were out of the Commission’s hands but they could work on parking programs, taking a more global perspective, etc.

Commissioner Newton stated she was struggling with the “big picture”. She asked staff if they were asking the Commission to supplement the new ADU ordinance with things that will not be perceived

of as a “poison pill”. She asked if ideas that might constitute objective development standards that might help with fire safety issues (minimum street width, etc.) were on the table. Planning Director Berto stated these are issues that could be explored. Any modifications have to be routed to HCD for feedback.

Chair Green reiterated that fire safety was a concern and he would like to update the maps with help from the Fire Department. He would like to see a detailed up-to-date street map.

Chair Green opened the meeting to public comments:

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

- The fire issues were important.
- The Transient Occupancy Tax (TOT) Ordinance covers the short-term rentals but the Town is losing about \$100,000 in income.
- The Town estimated about 300 second units in 2000- about 100 more have been added.
- He suggested rent control on new ADU's.
- Existing setbacks should remain in the Wildland Urban Interface Zones.

Mr. Rick Hamer made the following comments:

- The 2007 map is dated way before the “clear and present danger” of wild fires.
- There are a number of inconsistencies in the efforts by the State to increase housing.
- There is work to be done.
- ‘One size fits all’ regulations do not apply to Fairfax.
- The push back should start here.
- Parking programs and restricting short-term rentals are not going to work.

Chair Green closed the meeting to public comments:

Chair Green provided the following comments:

- He has been speaking to many business owners who have trouble finding employees that do not have to commute.
- Fire safety has to be addressed.
- They need to walk a “tight tightrope”.

Commissioner Kehrlein provided the following comments:

- She would like to push back on the setbacks.
- Five feet should be the minimum side yard setback with a minimum of ten feet for the rear yard.
- She would like to see the uncovered parking idea put forward.
- She had a question about the processing fee and why it had to be include in the Ordinance.
- Fire issues are a concern.

Commissioner Gonzalez-Parber provided the following comments:

- It could be beneficial to have ADU's in the downtown- hillsides could present a problem.
- She asked if an ADU could be limited based on lot coverage or floor area ratio. Planning Director Berto stated an 850 square-foot ADU can be built regardless of the size of the lot.
- Education would go a long way.
- She wants to protect the environment (endangered species and plants).

Commissioner Swift provided the following comments:

- The biggest issue is safety.
- She asked if they could prohibit ADU's in certain zones or portions of zones based on public safety.

- She referred to AB 881 which talks about the ability of a local agency to designate areas based on the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.
- She would prioritize safety over affordability.
- Prior discussion points were the issue of the sill height of second story windows, landscaping, the two-for-one replacement of trees, and noticing.

Commissioner Newton provided the following comments:

- The specific issues listed in the staff report should include natural hazard areas including flood zones, landslides, etc. They should not just focus on fire issues.
- She would like to create language that limits the ability to cut heritage trees and other historic preservation concepts. These would be concrete, measurable standards.
- She was glad to see the creek setback in the existing ordinance.
- She suggested doing an inventory of structures that have the potential to be turned into an ADU, along with all the non-conforming structures, and rental units being used for Airbnb.
- Commissioner Swift suggested sending a survey asking landlords about the presence of a rental unit and the amount of rent.

Commissioner Rodriguez provided the following comments:

- She recommended initiating an amendment to the ADU Ordinance and the Parking Ordinance.
- They do need an inventory of existing and potential ADUs.
- They need to know which streets are one-way and the location of evacuation routes.

Chair Green provided the following comments:

- There are some language issues in Exhibit A. He referred to Section 17.048.010, ADU, (c), (9), and stated he did not like the definition of “Primary residence”- it has so many different legal connotations.
- The term “existing single-family dwelling” is used in the ordinance and he asked if that was the same as a “primary residence”.
- The term “existing multi-family dwelling” is not defined.
- He referred to Section 17.048.010, ADU, (c), (15), “Tandem parking”, and suggested the following wording: “one in front of the other”.
- He agreed with the concerns raised by Mr. Egger.
- They need to go beyond fire issues.
- He wondered if the Tree Committee has a role to play in an ADU application.
- He asked if the definition of a “tree” should include the root structure.
- This amendment should be discussed in depth.
- He would like a clearer definition of what the objective standards can be.

Commissioner Rodriguez provided the following comment:

- She wondered if they should have a working session with the Fire Department.

Commissioner Gonzalez-Parber provided the following comment:

- The Fire Department would be a good place to start.

Commissioner Fragoso provided the following comments:

- She was not sure what they are being asked to do and what they are capable of doing.
- Perhaps the Council should go to the other entities that they have purview over (Fire Department). Typically, actions to amend to one State regulation are more successful when many groups come together to address their issues with the State regulations.

Planning Director Berto stated staff would consider the Commissions' comments and come back at the next meeting to carry on this conversation.

The Commission took a 5-minute break at 9:30 p.m.

MINUTES

3. Minutes from the December 19, 2019 Commission meeting

M/s, Rodriguez/Fragoso, motion to approve the minutes of December 19, 2019 as corrected.
AYES: Fragoso, Gonzalez-Parber, Kehrlein, Newton, Rodriguez, Swift, Chair Green

Planning Director's Report

Planning Director Berto reported the Sonoma State University Conference is scheduled for February 1st. He will be happy to make the reservations. Chair Green asked Commissioners who attend the Conference to report back at the next meeting. Planning Director Berto reported the League of California Cities Planning Commissioners Conference is coming up and will be held in Sacramento. He will send the information to the Commission. He thanked Commissioner Kehrlein for her service and wished her well in her "retirement" from the Commission. Commissioner Kehrlein stated she agreed to stay on the Commission until the Council appoints another Commissioner.

Commissioner Comments and Requests

Commissioner Fragoso asked staff to report back on the Commission's workload and priorities for the next six months.

Chair Green commended the Iron Springs Pub on demonstrating how to pump beer without the benefit of electricity! Well done!

Commissioner Swift asked staff for a list of the applicable code sections, the final criteria, and scoring information with respect to cannabis applications.

Commissioner Rodriguez reported she watched a Clean Power Exchange Webinar put on by Community Choice Aggregators having to do with resiliency in response to electric grid outages. She discussed how the CCA's Joint Powers Authority operates. The CCA's are doing an analysis of needed grid repairs and replacements in an attempt to improve the grids. They are also doing micro-grid testing.

Commissioner Rodriguez asked staff about PG&E's plans to trim trees throughout Fairfax and whether an arborist was working with them on proper cutting techniques. Planning Director Berto stated staff would research that and report back. Commissioner Gonzalez-Parber stated she was told they were cutting limbs back 10-feet from electrical wires.

Commissioner Gonzalez-Parber asked about the status of the Parkade Bus Shelter Project. Planning Director Berto stated staff was working on the bid, etc. It will be a very attractive and comfortable bus shelter.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary