

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
FAIRFAX WOMEN'S CLUB  
THURSDAY, FEBRUARY 20, 2020

Call to Order/Roll Call:

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

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

Commissioners Absent: Philip Green (Chair)

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

**APPROVAL OF AGENDA**

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

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

ABSENT: 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, 12C-2, 12D-1, and 12D-2; Assessor's Parcel # 002-112-13; Limited Commercial CL Zone; Fred Ezazi, applicant/owner; CEQA categorically Exempt per Section 15301(a) and (e)(1) and 15303(c). Recommend continuance to the March 19, 2020 meeting.**

Commissioner Newton recused herself from this item and left the dais.

Principal Planner Neal stated the applicants and staff were working on gathering the requested information and preparing the updated plans.

Commissioner Fragoso stated she recently was on the property and noticed two major sections with walls that have been completely removed. Principal Planner Neal stated they have permits for the work being done.

Commissioner Swift stated the wording in the agenda item reflects the original application with fourteen and not fifteen units.

M/s, Fragoso/Gonzalez-Parber, motion to continue Application #19-15, 6, 8, 10, and 12 School Street Plaza, to the March 19, 2020 meeting with the suggested corrections and modifications identified by Commissioner Swift; the wording in the agenda item is still reflecting the original application with fourteen and not fifteen units.

AYES: Fragoso, Gonzalez-Parber, Kehrlein, Swift, Acting Chair Rodriguez

ABSENT: Chair Green

RECUSED: Newton

Commissioner Newton returned to the dais.

## **DISCUSSION ITEMS**

### **2. Continued discussion on ADU/JADU issues and options**

Planning Director Berto presented a staff report.

Planning Director Berto reported on formation of the County Ad Hoc Fire Committee and asked the Commission to appoint a representative. It was the consensus of the Commission to ask Commissioner Swift to serve on this committee given her background in local fire safety efforts.

Commissioner Fragoso asked if any portion of fees would be waived for ADUs or JADUs. Planning Director Berto stated he thought fees would be one-half of the cost of processing permits. Commissioner Newton referred to Exhibit A, page 7, Section 17.048.010, ADU, (d)(2)(B).

Commissioner Swift asked if the Amnesty Program was still in existence. Planning Director Berto stated State regulations stipulate a five-year period for bringing violations into compliance. The Town has a similar Amnesty Program.

Commissioner Newton asked if existing units that may not be legal could be legalized under the new ordinance and whether or not they would fall under the Amnesty Program. She asked what was out there that might require amnesty. Planning Director Berto stated staff would report back on the scope of the Amnesty Program.

Acting Chair Rodriguez asked for comments on Fire Safety and Emergency Access and Evacuation.

Commissioner Kehrlein referred to the staff report, the top of page 2, the list of factors impacting wildfire-related hazards, and stated expanding setbacks should be added. Planning Director Berto stated staff explored this issue- the four-foot setback is stipulated by the State. Acting Chair Rodriguez stated she would like feedback from the Fire Department and would like setbacks to be included in the list.

Commissioner Gonzalez-Parber referred to Exhibit A, page 6, Section 17.048.010, ADU, (f)(1)(A), Maximum Size, and asked how they were able to get around the State's prescribed size of 1,200 square feet. Planning Director Berto noted these were moving targets. A unit of 850 square feet must be allowed regardless. However, conversion of an existing accessory structure could, theoretically, be any size. Commissioner Gonzalez-Parber had a question about the provision regarding the rescue window component for fire (the proposed code indicates windows must be 6

feet above the finished floor). How could this requirement be reconciled with bedroom requirements for exiting requirements. She stated the public right-of-way is usually a lot wider than the actual roadway and she had a question about the requirement for on-site parking and whether the parking requirement for some of the units could be designated by the fire department in unpaved areas within the public right-of-way that is not yet paved.

Commissioner Newton asked if this topic should be restricted to fire or should cover emergency situations such as floods, earthquakes, electrical outages, landslides, etc. She brought up the issue of creek setbacks. Planning Director Berto stated staff would look at adding these additional considerations. Commissioner Newton stated she was also concerned about poor water pressure.

Acting Chair Rodriguez stated she would like more information about evacuation routes and roads and an evacuation study. She would like clarification on how the designated maps will be used moving forward.

Acting Chair Rodriguez asked for comments on Short-term Rentals.

Planning Director Berto stated staff would be presenting a recommendation at the next meeting.

Acting Chair Rodriguez referred to Section 17.048.010, ADU, (e)(3) and stated the current term is less than 30 days and she asked staff to obtain information from other agencies.

Commissioner Newton referred to the Transient Occupancy Tax (TOT) and stated there should be better enforcement and perhaps an audit of what should be collected. Planning Director Berto stated this will be a topic of discussion at the March meeting.

Acting Chair Rodriguez asked for comments on Objective Development Standards.

Commissioner Gonzalez-Parber referred to the window sill issue and stated translucent glass can be used for privacy. She asked if they could include a requirement that the main entrance to a unit not be facing a neighbor. This can help with privacy issues. She asked if building height limits would be included here. An 800 square foot structure that is 16 feet high seems tall. She asked if they could change it to 14 feet.

Commissioner Kehrlein stated the intent of this section was good but it could be tweaked to address fire and life/safety standards. She asked if an ADU application would be routed to the Fire Department. Planning Director Berto stated "yes". Commissioner Kehrlein stated the Fire Department usually requires a Vegetation Management Plan. Acting Chair Rodriguez asked staff to clarify this at the next meeting.

Commissioner Swift asked if endangered species and environmental concerns could be addressed through objective standards. Planning Director Berto stated this would be difficult without requiring a flora and fauna study for every application. Commissioner Newton stated there were State lists of locations where endangered plants have been identified. Acting Chair Rodriguez asked staff to come back with this list so the Commission can discuss whether or not they could create a standard.

Commissioner Newton asked if this would be the appropriate place to raise the issue of heritage trees. She wants to include age, size, and endangerment status. Acting Chair Rodriguez asked if the Heritage Tree Ordinance would be imbedded in this ordinance or if it would be referenced. Planning Director Berto stated staff could look at the extent to which they expand the protections. Commissioner Newton stated there were trees that were particularly beneficial to the ecosystem in terms of fires, floods, and landslides. Planning Director Berto stated staff would get the Town Arborist involved in this discussion.

Acting Chair Rodriguez asked for comments on Uncovered Parking.

Commissioner Fragoso stated turning a garage into an ADU is not a problem- the problem is moving the cars onto the street. It is easier to make the nexus in neighborhoods that have evacuation issues or a lack of street parking. She likes the idea of removing the required covered parking requirement or allowing parking in setbacks.

Commissioner Swift stated there were off-street parking requirements in the ADU Ordinance including allowing parking in setbacks. She wants to look at parking issues separately.

Commissioner Newton asked about the history and rationale of the covered parking requirement. Principal Planner Neal stated in the past developers did not want to spend money on garages. It is an amenity for tenants or buyers. Commissioner Newton asked about the provision pertaining to the proximity of an ADU to transit. Principal Planner Neal stated parking can be required if it is a new, detached structure. It does not apply to JADUs. Commissioner Newton asked staff to come up with a map of these proximities.

Acting Chair Rodriguez summarized the Commissions' comments: 1) Commissioner Swift will serve on the County's Ad Hoc Fire Committee; 2) The addition of the following topics with respect to Fire Safety, Emergency Access, and Evacuation: increasing setbacks, medical response, building materials, parking recommendations, environmental issues, geology, heritage trees, floods, landslides, street flow restricted to one-way, more on maps, clarifying the Wildland Urban Interface Area (WUWI); 3) With respect to Objective Development Standards: use of obscure/translucent glass, building height maximum of 14 feet instead of 16 feet, front door not facing the property line, returning with Native Plant Society list and a map and endangered species location maps, returning with Heritage Tree Ordinance to better integrate it with this ordinance, return with more information on short-term rentals and the TOT; 4) With respect to Uncovered Parking: staff should look at all of the options including designated parking.

M/s, Fragoso/Gonzalez-Parber, motion to recommend that staff proceed with installing Commissioner Swift as the Commission representative to the County's Ad Hoc Fire Committee, proceed with the comments and suggestions made regarding Objective Development Standards including the recommended changes to window and sill height provisions, staff will continue amending the Town's parking regulations as discussed by the Commission including an investigation of designated parking and the other items discussed, and continue to work on reorganization of the ADU and JADU chapters and come back with substantive changes that should be made to the ordinance.  
AYES: Fragoso, Gonzalez-Parber, Kehrlein, Newton, Swift, Acting Chair Rodriguez  
ABSENT: Chair Green

The Commission took a 5-minute break at 8:35 p.m.

### **3. Discussion of Objective Design and Development Standards Work Program**

Planning Director Berto presented a staff report.

Acting Chair Rodriguez opened the meeting to public comments.

Mr. Rick Hamer, Fairfax, made the following comments:

- He is concerned that these standards might lock down a certain architectural design or "look" that might be good for 2020 but not for 2030, 2040, or 2050.
- He would like the Commission to perform a periodic review that would include a Public Hearing.

Acting Chair Rodriguez closed the meeting to public comments.

Acting Chair Rodriguez asked if there was an opportunity for any portion of this to address ADU issues. Planning Director Berto stated “yes, but only in a related matter”. Another grant (SB 2) pertains to ADUs and JADUs. A workbook will be put together for this process.

Acting Chair Rodriguez stated the workshops were coming up soon and the Town needs to get the information out as soon as possible.

Commissioner Swift agreed with the need for immediate outreach along with an informational worksheet.

Commissioner Swift asked if there were other communities with a similar product. Planning Director Berto stated there have been efforts to develop these standards in other areas but he was not sure about the scope.

Commissioner Swift asked which nine jurisdictions were participating in the work with the planning consultant. Planning Director Berto stated he would provide that information at the next meeting.

Commissioner Swift referred to the staff report and the concept of “place types” and asked if this would include developments like Victory Village. Planning Director Berto stated “yes”.

Commissioner Swift asked how the County-wide survey would be conducted. Planning Director Berto stated he did not have the details. There should be information on that at the workshops. He will report back.

Acting Chair Rodriguez asked who, on the staff level, was working on the scope of the work that will be done by the consulting firm Opticos. Planning Director Berto stated County Planning Directors are working with the firm.

Commissioner Newton referred to the community led survey of potential historic resources and asked if they could create a subcommittee or community group to begin the local historic inventory without waiting for experts. Planning Director Berto stated “yes”- staff would come back with a recommendation. Acting Chair Rodriguez suggested the Commission undertake this at the next meeting.

Commissioner Newton asked about the standards for getting on the California State Historic Building Inventory. Commissioner Fragoso discussed the State Office of Historic Preservation process, forms, requirements, etc. Planning Director Berto stated staff would come back with the options including creating Historic Districts, historicity, etc.

## **MINUTES**

### **4. Minutes from the January 16, 2020 Commission meeting**

M/s, Newton/Fragoso, motion to approve the minutes of January 16, 2020 as corrected.

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

ABSENT: Chair Green

### **Planning Director’s Report**

Planning Director Berto reported the Town is accepting applications for the upcoming vacancy on the Commission. The deadline for submitting applications is March 22<sup>nd</sup>. He thanked Commissioner Kehrlein for her many years of service. The Town Council has scheduled its Goals Retreat for March 20<sup>th</sup>. The League of California Cities Conference will be held March 4<sup>th</sup> through the 6<sup>th</sup>.

## **Commissioner Comments and Requests**

Commissioner Swift asked for an update on the report by a member of the Open Space Committee about the discovery of Napa False Indigo at a property on Toyon Road. Principal Planner Neal reported a survey identified a colony of the plant within the footprint of the house. The plants were removed by the owners. Staff has been in contact with the Department of Fish and Wildlife to try to come up with a restoration program and a resolution has been agreed upon by everyone involved. The planning permits expire in March but the owner has requested a year extension. The Planning Director is considering this request.

Acting Chair Rodriguez reported she attended the Planning Commissioner's conference at Sonoma State University. The topic areas included wildfires, ADUs, and greenhouse gases. They also discussed how cities are losing impact fee funding.

Commissioner Swift stated staff sent a link to the Sonoma State conference information. The presentation about property rights during natural disasters was very interesting.

Commissioner Gonzalez-Parber asked for an update on the Cascade Drive Striping Project. Planning Director Berto stated it was on the next Town Council agenda.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:35 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary