

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
VIA TELECONFERENCE DUE TO COVID-19  
THURSDAY, AUGUST 20, 2020

Call to Order/Roll Call:

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

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

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

Planning Director Berto stated individuals wishing to address the Commission should use the “raise your hand” function. The Commission will be flexible in terms of allowing individuals to speak.

**APPROVAL OF AGENDA**

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

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green  
(Through a roll call vote).

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

**CONSENT CALENDAR**

There were no Consent Calendar items.

**PUBLIC HEARING ITEMS**

- 1. 131 Canyon Road; Application #20-7  
Request for Hill Area Residential Development, Design Review, Tree Removal, Excavation, Encroachment Permits and a Retaining Wall Height Variance for a 6 ft. 6 in. driveway wall to construct a 1,230 square-foot, 2 bedroom, 1 ½ bathroom, single-family residence with an attached 1 car carport; Assessor’s Parcel No. 003-032-16; RS-6 Single-family Residential Zone; Vlad and Paula Iojica, applicants/owners; CEQA categorically exempt per Section 15303(a).**

Principal Planner Neal presented the staff report. She noted Resolution No. 2020-07 should include the following change: the title should read 131 *Canyon Road*.

Commissioner Newton asked if staff received an email from Jean Irving. Principal Planner Neal stated it was included in the previous packet. Commissioner Newton stated she wanted to make sure all public correspondence was received by the Commission and the public.

Principal Planner Neal stated staff received a letter from Ms. Kim Bergraff the day of the meeting in opposition to the project and expressing concern about the condition of the road.

Commissioner Rodriguez referred to the right-of-way issue and whether staff received any feedback from the Public Works Department about plans for future roadway repairs or any bridge limitations. Principal Planner Neal stated they have plans for repairs at certain portions of the road that are going through the Joint Agency Permitting Process. It is in the budget.

Commissioner Newton referred to page 11 of the staff report, the last paragraph, and stated it should refer to Canyon Road (not Bay Road).

Commissioner Rodriguez asked staff for a summary about what is happening with the trees. Principal Planner Neal summarized what was written in the staff report. Commissioner Rodriguez asked if more trees were removed than what was originally approved by the Tree Committee or per the direction of the Fire Department. Principal Planner Neal stated "yes".

Commissioner Rodriguez asked staff to clarify what is being proposed for the public right-of-way that might normally be seen on private property. Principal Planner Neal stated the Commission can approve structures in the public right-of-way such as the proposed gabion wall being proposed to create a fire truck pull out per Ross Valley Fire conditions and the walls on either side of the driveway.

Commissioner Rodriguez asked about the proposed materials and colors since the color board and plans were different. Principal Planner Neal clarified that the color shown on the newest set of plans for the upper floor siding refers to "iron clad" as the proposed color.

Commissioner Newton referred to Resolution No. 2020-07, page 2, #4 and asked about the reference to an accessory dwelling unit. Principal Planner Neal stated that reference should be deleted.

Chair Green referred to page 6 of the staff report, second paragraph, and had a question about the height of the proposed retaining walls and the parking. Principal Planner Neal referred to Sheet C2.1 which calls out the top of the walls and the wall heights.

Chair Green opened the Public Hearing.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He and his wife plan to live in the home. They purchased the property in 2013.
- It was not his intention to start on the wrong foot with respect to the trees.
- He was sure they were supposed to take action and clean the site per the Tree Committee and Fire Department.
- He wants to save the Oak in the northeast corner of the property so they redesigned the parking.
- They are minimizing the heights and foundations for the retaining walls along the parking perimeter to lessen the impact to the root systems of the trees.

Chair Green asked Mr. Iojica if he was aware he had to have the Building Permit in place prior to cutting the trees in 2017. Mr. Iojica stated "yes"- they did no additional cutting after obtaining the permit. There was a second Tree Committee Meeting. He has a document from the Tree Committee indicating it is a "permit with an expiration date".

Chair Green referred to page 6 of the staff report, the fifth paragraph, and asked about the suggestion to replace the gabion wall.

Mr. Rich Rushton, architect, made the following comments:

- A gabion wall would be better looking than an I-beam and wood lagging wall.
- They are structurally equivalent.

Commissioner Rodriguez asked about the staff recommendation for setting the second story back five feet and how the height of the structure relates to the two adjoining properties. She had a question about the roofing materials- weathered wood as indicated on the plans or brown stone as indicated on the color board. She asked if the applicant plans on hiring a project manager or if he would do that work himself.

Mr. Rich Rushton, architect, made the following comments:

- The cover letter explains the change in the color and materials.
- The color board should govern.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- The closest building is about eight feet from the proposed footprint. It is a detached garage.
- He will hire a construction manager.
- They have looked at the option of setting the second story back five feet.
- Extending the southeast corner of the house towards the back would push the exterior wall towards the rock outcropping and minimize the amount of natural light to the master bedroom.
- It would create additional grading and off-haul from the site.
- The proposed design, with all three stories stacked upon each other, minimizes grading on the site.

Chair Green stated the neighbors have expressed concern about the condition of the roadway and the use of heavy equipment. He asked Mr. Iojica if he would agree to a bond to repair damage to the road.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He studied the road and agreed with the neighbors concerns about the condition.
- The critical section is past his property.
- Garbage disposal trucks are heavier than the vehicles that will be involved with his project.
- He would agree to a bond- this is a common practice.

Commissioner Gonzalez-Parber asked Mr. Iojica if he has implemented any erosion control measures subsequent to cutting the trees. She asked if a geotechnical engineer assessed the stability of the area where the trees were removed. She asked when they plan to start construction.

Mr. Vlad Iojica, applicant/owner, made the following comments:

- He plans to implement erosion control measures prior to the rainy season.
- He had a geotech on site last week performing borings who prepared a letter that was in the packet.
- They plan to start construction next April.

Commissioner Gonzalez-Parber asked if the Fire Department could call out any measures that need to be taken during construction with respect to the stability of the road. Principal Planner Neal stated that would be the responsibility of the Town Engineer and the Public Works Department.

Commissioner Newton asked Mr. Iojica if he would consider pushing the top story back five feet or using some other form of articulation to minimize the mass. Mr. Iojica stated they did look at that and decided to put in the triangle deck along with a vegetation buffer.

Ms. Martha Ture, Canyon Road, made the following comments:

- She lives west of the proposal near the end of the road.
- There are three more trees flagged on the property.
- Tonight is the first she has heard about any proposed road closure. This would pose a risk to the residents on Canyon Road.
- She is concerned about safety issues that increase fire or road hazards to the rest of the residents.
- This is a steep hillside with slides.

Planning Director Berto stated staff does not anticipate a road closure that would occur over any extended period of time. There are often temporary road closures associated with construction. The residents would get notice. Principal Planner Neal stated these are temporary closures that allow vehicles to maneuver in and out.

Ms. Debra Benson, representing the Tree Committee, made the following comments:

- A citation was issued on June 26, 2017 charging \$1,000 per tree for 14 trees that were removed without approval.
- The applicant was given the choice of going before the Tree Committee, after the fact, to get approval or pay the \$14,000.
- The application mentions 11 trees.
- In February of this year the Tree Committee looked at an application to remove 15 trees. They identified and compared the trees on the map. She has since gone to the property and counted nine new stumps including an Oak.
- The Tree Committee does not have the authority to give a “contradictory permit”.

Paula made the following comment:

- She is the co-applicant and thanked the Commission for reviewing the application.

Chair Green closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- She is not in favor of changing the gabion wall or setting back the second story.
- A seven-foot wide deck, which would be the only outdoor space, does not seem big enough.
- She liked the triangular deck and stated it was an excellent use on the property and would break up the mass.
- This is a modest structure that is set back and will not be intrusive.
- The front facing windows on the second floor would provide the needed light.

Commissioner Gonzalez-Parber provided the following comments:

- She likes the project. It is very modest.
- She normally does not like triangular, sharp angles but in this case it follows the line of the road. She wondered if the angle could be softened.
- This is such a lovely site and she thought the site could accommodate a bit more living space square footage.
- Pushing the second floor back would not work.
- She wondered if they would consider adding some trellises as a way to break up the plane of the front wall and articulate that continuous façade. Mr. Rushton stated he was trying to create a strong contrast between the upper and middle floor by a change in the materials. The window

composition creates a strong horizontal element for the middle floor. He did not see any reason or function for a trellis but he would agree to it. They could add some sort of overhand using steel and Plexiglas (non-combustible) to act as a shelter over the entry.

- This is a nice project and she loves the site.
- She would like to see some trees planted in the front to soften that façade.

Commissioner Swift provided the following comments:

- She is not in favor of stepping the upper level back which would result in a large retaining wall and more off-haul.
- This is a small building on a steep lot.
- The design, with the color changes, was fine.
- She is in favor of changing the gabion wall to the I-beam or CMU option. This would be a better look and fit in with the neighborhood.
- She referred to the redesign of the driveway and walls to save tree #52 and stated the Vegetation Management Plan might need to go back to the Fire Department.
- Creating the fire truck turn-out and widening the road will make the road safer.
- She suggested some modifications to the Notice of Tree Committee Action for permits that are reviewed by the Commission.
- She is in favor of the project.

Chair Green provided the following comments:

- He would like to see all the trees replaced that were removed.
- The project is great overall.
- He likes the size of the project- it is modest.
- The 3 stories stacked one on top of the other does add to the massing of the structure but the color change will help.
- He is glad they are keeping the Oak tree.
- He urged the applicant to plant as many trees as possible.
- He referred to Resolution No. 2020-07 and wanted to add the following conditions: 1) The applicant will be ready to make emergent repairs as necessary if equipment causes a problem with the road; 2) Road closures must not exceed ten minutes for every half hour.
- He referred to the resolution, page 5, Condition #4, and suggested the following additional language: "Submit a cash deposit....of possible *emergency* damage to the public roadways".
- The gabion wall was not a bad idea. He is not going to second guess it.
- He could approve the project.

Commissioner Newton provided the following comments:

- She likes the application- the modest size and the good design.
- She is disturbed by the applicant's moving ahead with the tree removal without waiting for the appropriate time period and the proper sequence.
- She appreciated the revised plan to save the Oak tree.
- She is not tied to pushing the top floor back. She understood the need for more light in that area.
- The back deck and patio area will be really nice.
- She is concerned about sharing that road during construction.
- She referred to the resolution, page 1, and stated the address in the title should be 131 *Canyon* Road, the first paragraph should include the applicants names; on page 2, #3 a) should be deleted, in #4, the reference to an accessory dwelling unit should be deleted; on page 3, Condition #9, numbers 10 through 17 should be letters (a through h) and then the subsequent conditions shall be renumbered (#22 will become #10, etc.); on page 4, #23 (which will become #11) should read, "The proposed retaining walls....are necessary *for the* construction of the...."; on page 5, condition #2, the "may" should be replaced with "must", (e) shall be added saying

"Provisions to address potential temporary road closure"; on page 6, Condition #8, the word "shall" should be added; on page 10, Condition #37 should spell out "Vegetation Management Plan"; on page 11, Condition #51 should read "Road closure... *and shall be in accordance with the approved construction plan*".

- Any reference to stepping the third floor back five feet should be deleted from the resolution.
- She was not sure how enforcement of a Vegetation Management Plan "for the life of the property" would be enforced.

Commissioner Gonzalez Parber provided the following comments:

- She asked about the extent of the proposed gabion wall. Principal Planner Neal stated it runs along almost the entire frontage except in the area where the driveway would be constructed.

M/s, Fragoso/Gonzalez-Parber, motion to adopt Resolution No. 2020-07 with the following modifications: 1) The gabion wall shall remain; 2) The five foot setback of the second floor is not included; 3) The proposed trellis is not included; 4) The requirement for emergency road repair shall be included in Condition #4; 5) The retaining wall heights would not be required to change; 6) The Vegetation Management Plan should include an erosion control/prevention plan and implementation of appropriate measures that would preclude an erosion during the winter due to the removal of the trees and shall be submitted prior to the start of the rainy season for review and approval by the Town Manager and the Public Works Department; 7) Road closures shall be appropriately noticed; 8) There shall be a deed restriction stating the gabion wall maintenance is the responsibility of the owner; 9) All the corrections and modifications made by Commissioner Newton.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Chair Green

NOES: Rodriguez, Swift

(Through a roll call vote).

Commissioner Swift stated she voted "no" because she would like to see another option to the gabion wall.

Commissioner Rodriguez stated she voted "no" because she supported a number of the staff recommendations.

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

## **2. 6 Walsh Lane; Application #20-8**

**Request for Hill Area Residential Development, Design Review, Tree Removal, and Excavation permits for a 50 percent remodel of an existing 1510 square foot, 3 bedroom, 2 bathroom, single-family residence and a 2 story addition to construct a 2,867 square foot, 5 bedroom, 4 bathroom single-family residence with an attached 2 car garage; Assessor's Parcel No. 003-192-20; RS-6 Single-family Residential Zone; Laura Kehrlein, applicant; Irene Pan Panagoulis Survivor's Trust owner; CEQA categorically exempt per Section 15301(e)(2)(A).**

Commissioner Rodriguez stated she would recuse herself from this item since she lives within 500 feet of the subject property.

Commissioner Fragoso stated the Commission was considering a continuance and she asked if they needed to hear the staff report. Principle Planner Neal stated past practice has included the presentation of a staff report and public testimony.

Assistant Planner Spencer presented the staff report. She noted the Planning Commission will need to act on the Tree Removal Permit since the Tree Committee has not been meeting due to the pandemic.

Commissioner Newton stated the Commission received correspondence from the Town Attorney and she asked staff if they are recommending a continuation to allow the Ross Valley Sanitary District to answer questions about the sewer lateral. Planning Director Berto stated he would like to get a consensus from the Commission on that topic. It would be helpful to hear public comments and for the Commission to discuss other aspects of the project.

Chair Green stated the letter from Mr. Neal Sorenson, the applicant's attorney, mentions a case that does not seem applicable to this situation. The case has to do with public access to a beach. He would like to continue the item to allow the Town Attorney to respond to Mr. Sorenson's letter.

Chair Green opened the Public Hearing.

Ms. Laura Kehrlein, architect, made the following comments:

- Mr. Sorenson is not available tonight but he is of the opinion that the case has to do with a prescriptive easement. Planning Director Berto stated this is a topic that cannot be discussed by staff tonight. It is being handled by the Town Attorney.
- The property was purchased last year. It was neglected and had deficiencies including a crumbling foundation, rain flowing into the basement, an unsafe electrical system, and almost non-existent parking on the site.
- They want to obtain a Building Permit and remodel before the rainy season.
- The application was stalled due to the Shelter in Place Order.
- The design was triggered by the need to create a garage.
- The proposed garage is nestled against the home and respects the 15-foot side yard setback to 10 Walsh Lane. The garage is angled to stay out of the required, minimum, side setback.
- A master bedroom addition is placed over the new garage.
- There is no additional grading along this side of the driveway.
- The shed butterfly roof design was chosen as the best fit for the existing home. The roof has a 3:12 slope allowing for composition roof shingles.
- They were required to upgrade the sewer as a part of the resale of the house. It currently meets all the standards.
- The majority of the new floor area is within the existing building footprint.
- The project meets the requirements for setback, floor area, lot coverage, height limit, and parking.

Commissioner Gonzalez-Parber asked Ms. Kehrlein if the existing lot coverage was 33% and the proposed is 30%. Mr. Kehrlein stated those were the numbers she came up with. Commissioner Gonzalez-Parber asked if the garage was included as part of the calculation. Ms. Kehrlein stated "no, it does not meet the minimum size." Principal Planner Neal stated garages count towards lot coverage but not towards the floor area ratio (FAR) if they are 500 square feet or less.

Commissioner Gonzalez-Parber stated they were over the combined side yard setback by six inches and she asked Ms. Kehrlein to point out where that is occurring. Assistant Planner Spencer stated that was an error in the staff report- it does conform.

Commissioner Fragoso asked Ms. Kehrlein about the upgrades the current owner did to the sewer system.

David, owner's representative, made the following comments:

- The sale of the home triggered the 90-day requirement to upgrade the sewer lateral. This is the first thing that was done.
- The construction company ran a new pipe through the system and the Ross Valley Sanitary District signed off on the whole network. They are completely compliant with the Ross Valley Sanitary District requirements.

Commissioner Fragoso asked if the sewer line was allowed to be day lighted (sitting on top of the earth rather than underground). Ms. Kehrlein stated she did not know but this system was inspected and approved by the district.

Thea made the following comments:

- Walsh Lane is a charming area.
- The project is out of line with the character of the area.
- This is a monster of a building- five bedrooms and four bathrooms. The lot cannot accommodate such a large building.
- She is concerned about the extra cars.
- She was concerned about fire danger and water shortages.

Mr. Juan Carlos made the following comment:

- The project will destroy the quality of life in the Walsh Lane neighborhood in order to make money.

Mr. Morgan Hall made the following comments:

- He lives next door to the subject property.
- He is concerned about the sewer. He was asked by the property owners if they could do a dye test to see if the sewer at 10 Walsh Lane tied into the sewer at 6 Walsh Lane. He decided not to allow them do the test.
- The lateral installed for the subject property is totally illegal. There is no documentation, permits, agreements, easement, inspections, or approvals. The sanitary district does have a sketch.
- They have no access to the sewer at the rear and running a sewer out the front would be difficult.
- He was concerned that this is a spec house.

Ms. Sharab Bogan made the following comments:

- She lives next door to the subject property.
- She is concerned about Walsh Lane (dead end) being blocked by trucks.
- This project should not be allowed to start during the fire season.
- The project is obviously planned to be two units.
- There is a minimal amount of parking on Walsh Lane.

Mr. Christof Bessler made the following comments:

- He lives across from the project.
- The project will start a process and set precedent for much larger homes that will change the character of the neighborhood.
- The project is out of character with the neighborhood. It is huge.
- He welcomed the improvements to the existing house.

Mr. Mike Frye, Manzanita Road, made the following comments:

- Principal Planner Neal read a letter and displayed the attachments from Ann Frye. The letter discussed her opposition to the project. The new roofline would significantly impact the view from her living room and bedroom facing south. The project is too large for Walsh Lane.
- The roof should be redesigned to minimize the blockage.

Ms. Barbara Cassidy, Walsh Lane, made the following comments:

- This is a small, quaint neighborhood.
- She is concerned about the overall size of the project. It is too tall and does not fit in with the character of the neighborhood.
- Walsh Lane is not maintained by the Town.



- There will be an increase in traffic due to the size of the house.
- There will not be enough off-street parking to accommodate five-bedrooms.
- She is concerned this is a spec house and that it does not support the needs of the community.

Chair Green closed the Public Hearing.

Commissioner Newton provided the following comments:

- She wondered if the applicant would agree to a continuance.
- She would like to get more information from the Ross Valley Sanitary District about the sewer.

Commissioner Fragoso provided the following comments:

- She understood that a sewer line was a private matter between the property owners.
- This is such a large project and there is some question about the legal conformity of the sewer lateral.
- Given the lack of information in the records, the neighborhood concerns, the extent and nature of the improvements, she cannot make approval findings for the project. This is an extensive amount of work.
- She has no concerns with the design.
- They should not move forward on a project of this nature without getting more information as to the ownership and clarification of who is responsible for the sewer lateral that transverses three properties. The Town Attorney should have an opportunity to opine in this matter.

Chair Green provided the following comments:

- There is no need to discuss the condition of the sewer lines.
- The letter from the owner's attorney should be addressed by the Town Attorney.
- He is not concerned about the economic aspect- people buy and sell houses.
- He does have some basic questions about the design (height, etc.).
- They are taking a ridiculously dilapidated building and improving it immensely.
- He supported a continuance.

Assistant Planner Spencer referred to the Permit Streamline Act and stated the application could be continued to the September 17<sup>th</sup> meeting.

M/s, Newton/Fragoso, motion to continue Application #20-8, 6 Walsh Lane, to the next meeting and ask staff to pursue two specific issues- the easement issue and further clarification on the sewer lateral.

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

RECUSED: Rodriguez  
(Through a roll call vote).

Commissioner Rodriguez returned to the meeting.

**3 1620 Sir Francis Drake Boulevard; Application #20-9  
Request for a Use Permit and Design Review permit to convert an existing 1,573 square foot, 2 story commercial building into a residential duplex; Assessor's Parcel No. 001-235-11; Highway Commercial CH Zone; Joyce and Arthur Chartock, applicant/owners; CEQA Categorically exempt per Section 15301(a) and 15303(e).**

Principle Planner Neal presented the staff report.

Commissioner Newton stated there were a number of reasons to be concerned about putting residential uses in the Highway Commercial (CH) Zone. She asked staff about the "big picture". Principal Planner Neal stated the General Plan includes direction that the Highway Commercial

Zones in Town should be rezoned Central Commercial (CC) Zone which allows by right residential uses in the upper floors. The General Plan envisioned changing the zoning of project site and surrounding parcels to CC. Commissioner Newton asked if the Commission would be prohibited from allowing residential on both floors. Principal Planner Neal stated not as long as they could make the findings.

Commissioner Rodriguez stated although this property is zoned Highway Commercial it has historically been used as office space. She asked if the Chamber of Commerce provided any feedback. Principal Planner Neal stated she did not hear from them. Commissioner Rodriguez stated this property is outside of the Town Center boundary and classic retail. Principal Planner Neal stated the General Plan includes it as part of the Town Center. Commissioner Rodriguez referred to the Housing Element and asked if this property was cited as an "opportunity site". Principal Planner Neal stated "no". She reiterated that the General Plan envisioned rezoning this area as Central Commercial which would allow residential uses on the second floor by right.

Chair Green had questions about the code section that allows residential uses on the second floor in the Central Commercial Zone. They need to be cognizant of setting a precedent.

Chair Green opened the Public Hearing.

Mr. Art Chartock, applicant, made the following comments:

- This idea came about because they had the building for sale for a while and buyers were interested in a residential component.
- He read a statement about the need for housing in Fairfax.
- The proposal is for two, small, live/work, one-bedroom units.
- They do not want the Commission to consider a living unit on the upper floor and a commercial use on the lower floor.
- Staff is concerned about setting a precedent but there are residential uses on the first floor in this area.
- This is a unique location- times and needs are changing.
- They have no problem changing the four-foot fence to horizontal siding and eliminating the arbor.

Commissioner Newton asked Mr. Chartock if he would be willing to limit the rents to something affordable if the Commission agreed to the duplex idea. Mr. Chartock stated they are not proposing subsidized units.

Chair Green asked about the units to the left and right that were residential. Principal Planner Neal stated the duplex to the west is in the residential zone and the units to the east were legal, nonconforming and predate the Highway Commercial Zoning.

Mr. Rich Hamer made the following comments:

- The ground floor unit could be rented as a generic AirBNB or Bed and Breakfast and allowed as a Conditional Use for the CH Zone.
- Fairfax does not have a short-term rental ordinance.
- He discussed the 30-day rule and State Tenancy Laws.

Chair Green closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- A live/work project is different than a conversion project with two residential units. Planning Director Berto agreed- the residential component should be subordinate to the commercial aspect in a live/work scenario. The applicant would have to submit a different application that

would be studied by staff including the square footage dedicated to commercial vs. residential, etc.

- She was concerned about the lack of an affordable housing component.

Commissioner Swift provided the following comments:

- She asked if live/work units are allowed in this zone. Principal Planner Neal stated if the Commission decided to allow live/work units there should be conditions that require these units to be similar to home occupations (no retail sale, clients coming to the unit, etc.).
- They could ask for a continuance to allow the applicant to talk to staff about a live/work situation vs. straight residential. Mr. Chartock stated he was envisioning “mostly residential” where someone could work at home on a computer.

Commissioner Newton provided the following comments:

- She adamantly supported anything that encouraged more housing units in downtown Fairfax close to transportation.
- She reminded everyone that most people were currently living and working from home.

Commissioner Fragoso provided the following comments:

- She agreed with Mr. Chartock’s comments about the need for more housing in this community.
- There is a blend of different types of uses downtown.
- This area is already filled with housing- some of them on both floors.
- Fairfax does not have an Inclusionary Housing Ordinance which is the only way to require affordability restrictions. The size of the units would dictate the rent.
- She did not encourage the applicant to go the “live/work route”.
- Making these AirBNB’s would not solve any problems.
- A duplex is the best solution. It is in keeping with the historic character in the downtown commercial district.
- Findings for a duplex could be made based on the Housing Element, the historic character, and the dire need for housing in the community.
- She appreciated the articulated gate since it adds character.

Commissioner Clark provided the following comments:

- She agreed with the comments made by Commissioners Newton and Fragoso.
- She would love to see two, small residential units.
- There are residential units on either side of the subject property.

Chair Green provided the following comments:

- He would love to see this as a duplex- it makes sense.
- He referred to the findings and stated they could avoid setting a precedent by including a statement that this is an unusual historic period, commercial uses are disfavored at the moment, and residential uses are highly in demand.
- He cited General Plan Goal LU 8: “Preserve community diversity through affordable housing opportunities”, and Goal H 3: “Create transit oriented housing in the Town center that is less dependent on automobile traffic”.
- He did not want to set a precedent.

Commissioner Newton provided the following comments:

- She supported Chair Green’s suggestion about identifying the current events in the findings and also include a variety of findings that limit the ability to use this decision as a precedent.
- The adjacent uses include ground floor residential and many of the uses in the area predate Zoning limitations.
- The General Plan does encourage infill development within the downtown.
- There is a dire need for housing.

Chair Green reopened the Public Hearing.

Robin, owner of 1616 Sir Francis Drake Boulevard, made the following comments:

- She supported the applicant's endeavor.
- The building is attractive.
- There are ways to obtain affordability without lowering the rents such as Section 8 vouchers.

Chair Green closed the Public Hearing.

Commissioner Swift provided the following comments:

- She is having trouble making findings for the duplex and in particular residential on the lower level.
- She did not support lowering the parking from six to four spaces. There is no on-street parking in that area.
- She supported making the top unit residential.

Planning Director Berto stated the Commission could recommend that the applicant apply for a General Plan Amendment to change the zoning for this property to Central Commercial. This would address any zoning consistency issues. Chair Green had questions about the time frame for this process. Planning Director Berto stated it would need to be approved by the Town Council.

Commissioner Fragoso provided the following comments:

- She asked staff if the Commission could issue a Use Permit for residential use on the first floor. Principal Planner Neal stated "yes" but staff was not able to make the findings for a duplex.
- The Commission could issue a Use Permit tonight and forgo the need for the General Plan Amendment

Commissioner Newton provided the following comments:

- She reiterated Housing Element Goal H 3 which encourages the creation of transit oriented housing.
- Some of the items in the list of allowable and prohibited uses in the CC and CH Zones are antiquated. Life is different today.
- The six vs. four parking spaces is not an issue.
- She agreed with Commissioner Fragoso- they could approve this tonight.

Principal Planner Neal stated this property abuts the residential zone on Willow Avenue and the applicant could apply for a zone change which might make more sense than changing the General Plan Designation. Planning Director Berto acknowledged there were unique circumstances to this property but he was uncomfortable about setting a precedent.

Chair Green asked Mr. Chartock if he would agree to a continuance of no more than 90 days in order to explore options. Mr. Chartock stated "yes".

M/s, Newton/Fragoso, motion to continue the application to a future meeting to a period not to exceed 90 days.

AYES: Clark, Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green  
(Through a roll call vote).

The Commission took a break at 12:10 a.m.

#### **4. Consideration of digitized/georeferenced Zoning Chapter 17.060 Ridgeline Development Visual Resources Map**

Planning Director Berto presented the staff report.

Chair Green referred to the map that is displayed and stated he supported taking both maps into consideration and maximizing the ridgeline corridor area.

Commissioner Rodriguez asked if the red lines that indicating the boundary between watersheds was the highest elevation at that peak. Planning Director Berto stated "yes". Commissioner Rodriguez had a question about the primary and secondary ridges. She stated it was possible to come up with a design that could be placed below a ridgeline that would still encroach into the visually significant ridgeline areas. They need to start thinking about the minor vs. major ridges.

Commissioner Swift asked if there were any parcels that were thought to be in the corridor that fell out in the electronic version of the map. Planning Director Berto stated he did not think so. Commissioner Swift asked staff about the process for changing the General Plan so it reflects the name of the map that is contained in the Zoning Code. Planning Director Berto stated the Town Attorney is of the opinion that the most straightforward way to get a consistent name would be to amend the Zoning Ordinance. Commissioner Swift stated she would like to get information on the process for both.

Commissioner Newton agreed with Commissioner Swift that perhaps the most transparent approach would be to amend the General Plan and add the new map. She referred to the staff report, page 3, and stated she is not in favor of any of the three bullets under the Conclusions Section. She could live with something that is straightforward and would like to move forward with amending the Zoning Ordinance to refer to this map and give it its own name.

Commissioner Rodriguez stated neither a General Plan Amendment or Zoning Amendment is required- it is an administrative correction to an error. It requires a simple memo for the public record. Commissioner Fragoaso agreed.

Chair Green stated the intent is to let applicants know how decisions are made.

Planning Director Berto stated he would come back with a finished form of this digitized georeferenced map and some recommendations at the next meeting.

#### **5. Update on Objective Design and Development Standards (ODDS) and historic reconnaissance work**

Planning Director Berto presented the staff report. Staff received a proposal from an architectural historian and staff is confident they will sign a contract very soon. The Historic Subcommittee will be involved in the execution of the contract. This will not be a deep dive into historical resources but rather an identification of areas in the downtown historic district and historic characteristics. This will feed directly into the ODDS place types.

Commissioner Rodriguez had questions about the scope of the work. Planning Director Berto stated they will be focusing on the central downtown area where multi-family development is permitted. It will provide objective development standards that will allow them to continue to have local review ability to guide housing development. They will be able to plug in the special history and elements reflected in the downtown building designs in to these standards.

#### **Minutes**

**6. Minutes from the June 18, 2020 and July 16, 2020 Commission meetings.**

M/s, Rodriguez/Swift, motion to approve the June 18, 2020 and July 16, 2020 minutes as corrected.  
AYES: Clark, Fragoso, Gonzales-Parber, Newton, Rodriguez, Swift, Chair Green

**Planning Director's Report**

Planning Director Berto reported staff approved Temporary Use Permits for The Lodge, 31 Bolinas Road, 31A Bolinas Road, 12 School Street Plaza, and 60 Pastori Avenue. These permits are issued for a maximum of 120 days unless renewed. Staff has not received any adverse comments. He discussed the temporary Encroachment Permit process being used by the Town Manager.

**Commissioner Comments and Requests**

Commissioner Swift asked about the Housing Report and the Regional Housing Needs Assessment (RHNA) numbers. Planning Director Berto stated he would forward this information to the Commission.

Chair Green stated he would like signs posted at the entrance to Town saying: "Masks required- \$550 fine for violations". This is biological and not political or philosophical. Amen to that !

The Commission thanked Tamala for her fabulous Zoom work.

**ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:57 a.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary