

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
VIA TELECONFERENCE DUE TO COVID-19  
THURSDAY, SEPTEMBER 17, 2020

Call to Order/Roll Call:

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

Commissioners Present: Shelley Clark  
Norma Fragoso  
Mimi Newton  
Michele Rodriguez (Acting Chair)  
Cindy Swift

Commissioners Absent Esther Gonzalez-Parber  
Philip Green (Chair)

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, Newton/Swift, motion to approve the agenda.  
AYES: Clark, Fragoso, Newton, Swift  
NOES: Rodriguez  
ABSENT: Gonzalez-Parber, Chair Green  
(Through a roll call vote).

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Ms. Lynn Yetter asked if the Council and Planning Commission could have Town Hall meetings where people could ask questions and have a conversation. She suggested holding this type of meeting twice a year to provide more cross-talk. She asked them to speak about SB 1120 in the near future. She was concerned about cottage sized homes being demolished and replaced with larger homes. She expressed concern about the Wall property. She would like to see a moratorium on building.

Mr. Rick Hamer, Fairfax, expressed concern with wildfire safety and wanted NOAA radios to be a part of the Fairfax plan. He discussed climate change and stated it needs to be addressed at the local level.

Ms. Debra Benson, member of the Fairfax Tree Committee, stated the recommendation for the removal of Bay trees for fires safety reasons was not valid. Fire Safe Marin does not support the wholesale removal of California Bay Laurels based on the species alone. Wildfire hazards can be mitigated by the removal of shrubs and dead vegetation from the base of the tree. She would like to have a conversation about this issue.

## CONSENT CALENDAR

There were no Consent Calendar items.

## PUBLIC HEARING ITEMS

### 1. 6 Walsh Lane; Application #20-8

**Continued consideration of a request for Hill Area Residential Development, Design Review, Tree Removal, and Excavation permits for a 50 percent remodel of an existing 1,510 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).**

Acting Chair Rodriguez stated she would recuse herself from this item because of the proximity of her residence. She asked the Commission to nominate a Chair Pro Temp.

M/s, Newton/Clark, motion to nominate Cindy Swift to act as Chair Pro Temp for this item.

AYES: Clark, Fragoso, Newton, Swift, Acting Chair Rodriguez

ABSENT: Gonzalez-Parber, Chair Green

(Through a roll call vote).

Assistant Planner Spencer presented the staff report.

Acting Chair Swift opened the Public Hearing.

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

- She read the letter she sent to staff in response to the neighbor's letter dated September 8, 2020.
- They took a lot of time and care to come up with an application that met all the Town requirements.
- The property has many deficiencies including a crumbling foundation, an unsafe electrical system, lack of parking, and deferred maintenance of the entire property.
- The homeowner invited the neighbors to inspect the plans and the property and nobody expressed any concerns to her prior to this meeting. She has tried to be a good neighbor.
- The homeowner has tried to be respectful of the neighbors. The plan honors all setback requirements.
- The size of the home is controlled by existing conditions including the main floor and approving an existing 950 square foot lower floor basement.
- She displayed a slide depicting the current condition of the basement area.
- She pointed out the previous owner's attempt to repair the foundation. There are cracks and it is crumbling.
- An addition is planned on the side of the property. One corner of the new addition where the grade is lower than the rest of the home footprint is 31'10" where 35 feet is allowed.
- The requested height is the result of a new addition roofline conforming to the existing roofline.
- A 3:12 roof pitch is the minimum needed for a composition shingle roof.
- The proposed addition as seen from Walsh Lane is 26'5" high.
- Exterior material cement board was chosen to make the home fire safe.
- The colors are natural or dark in order to blend in with the natural setting and the assorted eclectic mix of homes in the neighborhood.
- The homeowner has no plans to sell the property at this time.
- A two-car garage is being created in a dirt area that currently serves one car.

- The size and design of the structure meets floor area ratio, lot coverage, and building height requirements.
- The new additions have been designed to blend and be proportional to the existing building.
- The proposed exterior materials were chosen to meet Wildland Urban Interface (WUI) requirements and create a contemporary design.
- The requested excavation is 233 cubic yards and is the minimum needed for the required improvements.
- The proposed deck is relatively narrow (seven feet) and provides outdoor space. It is designed to respect the privacy of 10 Walsh Lane.
- The owner wants to improve the basement area to make it part of the living space with a central staircase.
- The homeowner has no desire to include a second unit on the property.

Assistant Planner Spencer read the property owner's letter into the record.

Acting Chair Swift asked for confirmation that the garage could accommodate two standard sized vehicles (9'x19'). Ms. Kehrlein stated "yes, they just barely fit". Acting Chair Swift referred to the upper level south side windows and asked if they were clear or obscure. Ms. Kehrlein stated they would be tinted.

Mr. Neil Sorenson, attorney for the applicant, made the following comments:

- He was surprised that the Commission received an email from the Town Attorney but it was not provided to the public or to the applicant/owner.
- He was told that once the Town Attorney reviewed his letter then they would have access to that information. He objects to the fact that they do not have access to that information.
- The legal issue is clear. The Commission does not have jurisdiction to decide whether there are easement rights over the adjacent property.

Mr. David Ritter, project manager, made the following comment:

- He had trouble logging into the meeting.

Ms. Debora Benson, Cascade Drive, made the following comments:

- Fairfax is made up of nice old neighborhoods.
- This project does not fit into the neighborhood.
- It is twice the size of other homes in the neighborhood.
- She asked the Commission to follow the Design Review Guidelines.
- "Small town Fairfax" needs to be protected.
- These small cottages provide affordable housing.

Mr. Cristoff Bessler made the following comments:

- He agreed with the comments made by Ms. Benson.
- He lives across from the subject property.
- They need to find a middle ground and a compromise.
- Nothing in the plan conforms to the "average".
- He was opposed to the "mega-mansion". The project is too big.

Mr. Morgan Hall made the following comments:

- The directive of the Commission is to follow the Zoning Code.
- Design Review and the Hill Area Residential Overlay Ordinances are supposed to be used together to create infill development that compliments the surrounding development and not just allow applicants to design to the maximum allowed numbers.
- This project does not conform to the character of the neighborhood.
- The project is a "monster" compared to the others in the neighborhood.

- Excavation and grading should be minimized.
- He was not sure they would be able to get two cars in the proposed garage.
- This project would set a dangerous precedent.

Thea and a friend made the following comments:

- The friend will be able to see the project from his bedroom.
- There are no other five-bedroom homes in the neighborhood.
- She is concerned about evacuation during an emergency.

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

- Walsh Lane is not a public street and is not maintained by the Town.
- The proposal is to increase the size of the current structure to 3,288 square feet not counting the deck. The average square footage of neighboring homes is 1,425 square feet.
- The proposed project more than doubles the size of the existing structure.
- The project would change the neighborhood forever.
- The project is located in a Wildland Urban Interface (WUI) Zone.
- He was concerned about evacuation in an emergency.
- He asked the Commission to reject the project, without prejudice, as proposed.

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

- She is thrilled that the house is finally getting some attention.
- It is an eyesore and has been neglected for a very long time.
- The project is too big and does not fit in with the neighborhood.
- She was concerned with the proposed parking accommodating a five-bedroom home.

Ms. Sharab Bogan made the following comments:

- The project is too big.
- It will look like an office building.
- The rear of the house is drawn incorrectly as far as the line of the house.
- They would be looking into her master bedroom and master bath.
- She would lose privacy in those two rooms and her deck.
- She was concerned about parking during construction.

Mr. Rick Hamer made the following comments:

- The project is too large and it should be downsized.
- Every parameter that can be stretched is stretched to the limit.
- There is a lot of material being excavated.

Mr. David Ritter made the following comments:

- The assertion that he knows somebody on the Commission is false.

Acting Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She is torn between the neighborhood concern about the size, which she agrees with, but at the same time appreciates the fact that the existing footprint has been used.
- She appreciates that the applicant has reached out to the neighbors.
- Her focus in evaluating the project has been the Design Review Ordinance, Chapter 17.020.040 Design Review Criteria. There is reason to be concerned about height and the harmonious visual relationship of the structure and addition to the neighborhood.

Commissioner Fragoso provided the following comments:

- Her major concern at the last meeting was the issues surrounding the sewer line. This is no longer an issue.
- This is currently a 1,510 square-foot, two-story property, 20'10" tall, with three-bedrooms, and two-bath. It is being converted into a 2,800 square foot property, not a 3,800 square foot property.
- The earth that needs to be removed is to repair the foundation and to create a two-car garage with tandem parking behind it.
- The house is in terrible condition. Infrastructure improvements need to be made.
- The project is completely within the development footprint of the existing building.
- She has difficulty finding reasons to deny a project that meets every single code requirement.

Commissioner Clark provided the following comments:

- The project does seem large but it is not the Town's business to question what family members will make up a household.
- The review by staff was thoughtful.
- She sees nothing that contradicts the Zoning Code.
- She could support the application.

Acting Chair Swift provided the following comments:

- This is a small lot on a slope. The plans were done to fit the existing footprint. No variances are required.
- The project improves the parking for the site and the neighborhood.
- She asked if the applicant would be willing to change the back side addition windows facing 10 Walsh Lane to provide more privacy. Ms. Kehrlein stated part of the windows were clerestory. The others could be made shorter. There are two large Oak trees between the two properties and they are proposing more vegetative screening.
- She asked about protections for the private road during and after the construction process.
- The existing house was in disrepair.
- She is supportive of the application in general.

Commissioner Newton provided the following comments:

- She wants to make sure they are meeting the Design Review Criteria in their decision making.
- Section 17.020.040 (H) requires them to consider the extent to which the structure conforms to the character of other structures in the vicinity.
- They need to look at character and design harmony while acknowledging the need for diversity.

Ms. Kehrlein made the following comments:

- The houses are an eclectic mix.
- The design of the addition over the garage mimics the existing roof.
- There is a house on the cul-de-sac that has a similar design.
- They chose muted colors so they would not stand out.

Commissioner Newton provided the following comments:

- She is frustrated the Town does not have a separate Design Review Board.
- She is struggling with how the project could be modified.
- She would like it to reflect the size of the other residences in the immediate vicinity.

Acting Chair Swift provided the following comment:

- She asked if staff could review changes in the windows. Planning Director Berto suggested a condition that the lower sill is a minimum of six feet above finished floor or the use obscure glass. Ms. Kehrlein stated she would like some flexibility with not having to do the six foot sill and suggested a four foot sill.

Commissioner Fragoso provided the following comments:

- There are so many trees around the subject house.
- She cannot imagine them being able to look into the neighbor's windows.
- If there is a problem then they can work out some kind of window covering or other option.

Chair Swift provided the following comments:

- She asked how the private road issue would be addressed during the construction phase. Principal Planner Neal suggested the following change in the resolution: Condition 2 (b) shall read: "The applicant shall...on the public *and private* construction delivery...".

Commissioner Newton provided the following comments:

- She referred to the resolution and suggested the following change: Condition 2 (a) shall read: "Submit a construction plan... but *need not be* limited to..."; 2 (c) shall read: "Submit a cash deposit...to public *or private* roadways *including emergency damage*"; 2 (g) shall read: "*The applicant shall* submit 3 copies..."

Chair Swift provided the following comments:

- She referred to the resolution and stated the second "Whereas" should reflect the hearing date of September 17, 2020.
- She referred to the resolution, page 6, Condition #8, and suggested the following change: "Any damages to the public *and private* portions..."
- She referred to the resolution and stated there should be a condition that the construction employees carpool to the site.

Planning Director Berto suggested the following condition: "The new south elevation windows shall have a minimum plate height no less than the existing larger windows on the second floor". Ms. Kehrlein stated that was reasonable.

M/s, Fragoso/Clark, motion to adopt Resolution No. 2020-08 with the following modifications:

- 1) Condition 2 (b) shall read: "The applicant shall...on the public *and private* construction delivery..."
- 2) Condition 2 (a) shall read: "Submit a construction plan... but *need not be* limited to..."; 3) Condition 2 (c) shall read: "Submit a cash deposit...to public *or private* roadways *including emergency damage*"; 4) Condition 2 (g) shall read: "*The applicant shall* submit 3 copies..."; 5) the second "Whereas" should reflect the hearing date of September 17, 2020; 6) on page 6, Condition #8, shall read: "Any damages to the public *and private* portions; 7) There should be a condition that the employees carpool to the site; 8) The new south elevation windows shall have a minimum plate height no less than the existing larger windows on the second floor.

AYES: Clark, Fragoso, Acting Chair Swift

NOES: Newton

ABSENT: Gonzalez-Parber, Chair Green

RECUSED: Rodriguez

(Through a roll call vote).

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

The Commission took a 5-minute break at 9:25 p.m.

Acting Chair Rodriguez returned to the meeting.

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

Planning Director Berto presented the staff report.

Commissioner Fragoso stated she liked the idea of having different maps that show different qualities. She liked the idea of using the “georeferenced” title on one of the maps. However, she has no idea where these points are in reality and asked staff to provide some type of overlay. She asked staff to continue to move forward. Planning Director Berto stated including street names and major landmarks will help clarify these questions.

Commissioner Swift stated the staff report states that a major ridge is not shown on the Visual Resources Map and the Surface Hydrology Map shows only two major ridges. The Ridgeline Development Ordinance has a definition of major ridgelines as “those areas located on the Visual Resources Map”. The major ridgelines are identified on the Visual Resources Map. This inconsistency is confusing. Planning Director Berto stated staff is looking for direction. Staff has developed some draft maps that shows what happens when they use the 100 foot vertical distance. Staff could come back with a map that shows what happens if they consider all of those ridgelines as major ridgelines and what happens with the 100 foot vertical.

Commissioner Newton agreed with Commissioner Swift. She cited the definition in Chapter 17.060.020. Those are the major ridges both within and outside of the Town boundary including the Planning Area Ridges. The ridgeline is the upper most line in elevation traversing a major ridge (the red line in the middle of the green area). All of the green area is major ridge. She does not understand horizontal, vertical, parallel distances- this is confusing. She agreed with Commissioner Fragoso that it would be helpful to see a street overlay. She is not sure she is prepared to answer the questions posed in the staff report. Planning Director Berto stated staff could come back with filling in the 150 foot horizontal distance and the 100 foot vertical distance with the caveat that no ridgeline scenic corridor would end up the flatlands.

Acting Chair Rodriguez stated she wanted to make sure the definitions were clear and consider some of the other language on the Visual Resources Map. Some jurisdictions have Class I ridgelines and secondary ridgelines. She stated they need to look at this as a cross-section as well.

Commissioner Swift stated she did not understand why the blue area was further out from the 150 feet horizontal. Planning Director Berto stated the 150 foot horizontal is a set distance the blue represents the various sub ridges or finger ridges. Acting Chair Rodriguez noted some jurisdictions have a Class II ridge or a “spine” that comes off of the Class I or primary ridge.

Acting Chair Rodriguez opened the Public Hearing.

Mr. Frank Egger, Meadow Way, stated the Town is currently processing a controversial subdivision project. The Ridgeline Scenic Corridor includes the ridgeline running up from Marinda Drive to the top of the northwesterly boundary of the Wall property. The other ridgeline runs from the top of Jolly Hill (above St. Rita Church) in a northeast direction above Marinda Oaks and the Ridgeway/Willow neighborhoods to Teresa and Oak Springs in San Anselmo. He is concerned that the Ridgeline Scenic Corridor Map is being modified and may benefit the Marinda Heights (a.k.a. Wall property) development proposal.

Acting Chair Rodriguez closed the Public Hearing.

Planning Director Berto stated the feedback was helpful.

## **Minutes**

### **3. Minutes from the August 20, 2020 Commission meetings.**

M/s, Swift/Fragoso, motion to approve the August 20, 2020 minutes as submitted.

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

### **Commission Discussion Item**

#### **4. Town's Business Recovery Programs**

Acting Chair Rodriguez thanked Planning Director Berto for the information about the Urgency Ordinance that allows the issuance of Temporary Outdoor Use Permits as well as Encroachment Permits.

#### **Planning Director's Report**

Planning Director Berto reported the Town Council upheld the Planning Commission's decision and denied the appeal for The Lodge. Principal Planner Neal stated the Council modified some of the conditions including restoring Table #7 and the two small tables on either side of the driveway.

#### **Commissioner Comments and Requests**

Commissioner Swift had a question about the Temporary Use Permit granted for 60 Pastori Avenue.

Commissioner Swift reported that Fire Safe Marin and the Marin Wildfire Protection Agency (MWPA) will be funding a pilot project to provide about 1,000 NOA radios in the county. They will be placed where they can be used in areas with no to poor cell phone service that can be use in the event of emergencies.

Commissioner Newton supported the recommendation to hold a Town Hall meeting that would allow a conversation between the public and the Council and Commission about issues of concern.

Commissioner Newton asked staff to follow up on the Wall property concerns expressed during Open Time.

Acting Chair Rodriguez stated she was interested in the Ms. Benson's comments about Bay trees. She agreed with Commission Newton's suggestion about holding Town Hall meetings, maybe twice a year. Planning Director Berto stated he would bring this idea to the Town Manager's attention.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:21 p.m. in honor of Ms. Connie Berto, the founding member of the Marin Horse Council.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary