

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

Call to Order/Roll Call:

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

Commissioners Present: Shelly Clark
Norma Fragoso
Philip Green (Chair)
Mimi Newton
Michele Rodriguez
Cindy Swift

Commissioner Absent: Esther Gonzalez-Parber

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

APPROVAL OF AGENDA

Commissioner Swift stated she would like to delete the following item: "Commission Discussion Items" since it is duplicative. Chair Green agreed.

Commissioner Fragoso stated she would rather retain this item and delete "Commissioner Comments and Requests".

Commissioner Newton referenced the Brown Act and cautioned the Commission about getting into an open-ended, broad ranging discussion about items that are not on the agenda.

M/s, Swift/Clark, motion to approve the agenda with the deletion of "Commission Discussion Items".
AYES: Clark, Fragoso, Newton, Rodriguez, Swift, Chair Green
ABSENT Gonzalez-Parber

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 5 Woodland Road; Application #20-11
Request for Hill Area Residential Development, Encroachment, Excavation, Tree Removal, Variance and Design Review permit for a 2,588 sq. ft. single-family residence and 576 sq. ft. detached 2-car garage; Assessor's Parcel No. 003-053-10; Residential Single Family RS-6 Zone; Jeff Kroot, applicant/architect; Lindsay and Chris Bolter, owners, CEQA categorically exempt per section 15303(a) and (e), 15305(a), and (b) and 15332.**

Principal Planner Neal presented the staff report.

Commissioner Rodriguez referred to the Miller Pacific Report regarding the easement necessary to convey run-off and asked how this would be dealt with in the Conditions of Approval. Principal Planner Neal stated the applicants created a drainage system on their own property that is not changing the amount of water going down into the inlet. The Town Engineer is satisfied that the speed or pattern of the runoff will not change.

Commissioner Newton stated the arborist report dated May, 2019 talks about removing 22 trees but the Vegetation Management Plan refers to 35 trees being removed. Principal Planner Neal stated the arborist report was not provided to the Tree Committee and they made their recommendation based on the application in front of them. The Vegetation Management Plan and Tree Removal Permit Application are more accurate than the arborist report. The Tree Committee recommended that no trees outside of the footprint of the building should be removed. Principal Planner Neal stated this is in conflict with the Ross Valley Fire Department (RVFD) recommendation about the allowable distance between crowns of trees. The applicants might need to get a new plan approved through the RVFD.

Commissioner Swift noted the arborist report did not look at the parcel as a whole but rather the footprint of the building. This explains the difference in the numbers.

Chair Green stated the arborist report is dated May, 2019 and he would like to see a revised report once they confer with the RVFD. Principal Planner Neal referred to Condition of Approval No. 48.

Chair Green opened the Public Hearing.

Ms. Lindsay Bolter, applicant, made the following comments:

- They want to save as many trees as possible.
- The trees in the arborist's report are marked with orange tape and the others are marked with blue tape.
- The lot they are building on is Assessor's Parcel No. 03-053-10 and this is a merging of three lots resulting in 24,297 square feet. They also own the adjacent lot (# 03-053-14) and want to merge it so it will remain undeveloped. The total would be around 40,000 square feet.
- The thirty five trees are contained in a wooded lot that is almost an acre.
- A majority of the trees are twelve inches or less and have a distorted growth pattern and are competing for light with the healthier trees.
- The wildlife biologist told her the closest Spotted Owl nesting site was on the other side of Cascade Drive.

Mr. Jeff Kroot, architect, made the following comments:

- The issue with the trees around the house being removed has to do with the RVFD.
- The crowns of the trees have to be a certain distance apart.
- The applicants like the wooded site.

Commissioner Swift noted the arborist report mentions three Acacias but she did not see them listed on the Vegetation Management Plan (VMP). Ms. Bolter stated those trees are on the paper road and not her property. They will be responsible for their removal.

Chair Green asked the applicants if they had an issue with the License Agreement to Permit Revocable Encroachment. Ms. Bolter stated "no".

Commissioner Fragoso referred to Page 2 of the plans, “Garage and Accessory Dwelling Unit (ADU) Plan”, and asked Mr. Kroot what is included in the two “unexcavated” areas. Mr. Kroot stated it was hillside.

Commissioner Fragoso asked Mr. Kroot if at one point they proposed a two-story garage. Mr. Kroot stated “yes”- they wanted to place the ADU above the garage. This did not meet the code so they relocated the ADU under the house.

Commissioner Rodriguez stated there was discussion at the last meeting about lowering the ridge on the southern portion of the building and the nine foot plate heights. She asked if this was done. Mr. Kroot stated they felt it was not unreasonable to ask for nine foot plates and they would prefer to obtain approval of the project plans that are presented to date. .

Commissioner Rodriguez referred to Plan S-1, “Topographic Survey”, and asked if these parcels had been merged. Principal Planner Neal stated she checked the historic Merger Records and the project site and the parcel to the west previously had different owners and could not legally be merged at that time. Both properties are made up of several original subdivision parcels. The various original subdivision lots for this project have been merged. The subdivision lots on the other property have also been merged. There are still two separate properties.

Chair Green closed the Public Hearing.

Commissioner Rodriguez provided the following comment:

- There were prior concerns about the off-white color.

Commissioner Newton provided the following comments:

- She asked if it was clear in the Resolution that they are requiring another arborist report. Commissioner Rodriguez stated that was in Condition of Approval #48.
- She referred to the Resolution, page 2, 8(a), and page 4, Condition of Approval #1, and noted the dates of the Vegetation Management Plan were different. On page 3, Tree Permit Finding #19 should refer to the requirement for a second arborist report.

Chair Green provided the following comments:

- He asked if it would be feasible to add to Condition of Approval #48: “Trees that can be preserved shall be those trees whose crowns would be a minimum of 30 feet apart. If it is required to remove a significant number of roots in a tree so as to jeopardize its future health it should be permitted to be removable”.
- It sounds like the owners want to preserve as many trees as possible.
- He likes the design.

Commissioner Swift provided the following comments:

- She supports the project.
- That area of the Cascades already has a lot of construction, narrow roads, and very little parking.
- She referred to the Resolution and stated she would like to add a Condition of Approval under the “Miscellaneous” category that workers carpool to and from the project. Principal Planner Neal suggested adding this to Condition of Approval #2.
- She referred to Condition of Approval #48 and stated it should clarify that the arborist provides a new report before the permit is issued.
- There was no need to include the specifics of the crown separation in relation to the slope.

Commissioner Fragoso provided the following comment:

- The Green Building elements are impressive- use of solar panels, recycling of materials, use of low VOC products, capturing of water and waste, etc.

- She is not concerned about the ½ inch overage on the height of the transom window at the peak.
- The proposed height is reasonable.

Commissioner Newton provided the following comments:

- She agreed with Commission Swift about not getting into the specifics about the tree crown distancing.
- She referred to the Resolution, Condition of Approval #26, and suggested it include the wording from Condition of Approval #5.

Chair Green provided the following comments:

- He could back off of the idea of reiterating the Fire Department requirements verbatim and go with Condition of Approval #48 with the addition of the word “new arborist report”.
- He would like to see a permanent addition to the construction conditions (Condition of Approval #2) requiring all contractors to wear masks during the pandemic. Commissioner Rodriguez stated this is a State wide mandate and they do not need to add it as a condition.
- He recommended signage.

M/s, Newton/Fragoso, motion to approve Resolution No. 2020-10 with the following modifications: 1) On page 2, Finding #8A, the date of the Vegetation Management Plan should be July 29, 2020; 2) On page 3, Finding #19, the following shall be added: “After... consulting arborist *new assessment.*.”; 3) On page 4, Condition of Approval #2, the addition of subparagraph “E” requiring a carpooling plan; 4) On page 4, Condition of Approval #3(e) shall reference a new tree removal protection plan; 5) On page 8, Condition of Approval #26 shall read: “No tree not shown on the approved Vegetation Management Plan and/or approved by the Planning Commission through this action and subject to regulation by the Fairfax Tree Ordinance shall be removed without obtaining a permit”; 6) On page 10, Condition of Approval #48 shall read: “Prior to...with a *new assessment.*...”.

AYES: Clark, Fragoso, Newton, Swift, Chair Green

NOES: Rodriguez

ABSENT: Gonzalez-Parber

Commissioner Rodriguez stated she voted no because the overall building size is too large compared to the other homes and the building height at the center will be overbearing given the slope of the lot. She supported removal of the trees in the building footprint only. The white trim is too white.

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

2. 169 Ridgeway Avenue; Application # 20-13

Request for a Hill Area Residential Development Permit, Design Review Permit and Tree Removal Permit for a 1,548 sq. ft, 3-story, 27 ft. tall, 3 bedroom, 2 bathroom, single-family residence with an attached 266 sq. ft. garage; Assessor’s Parcel No. 003-053-10; Residential RD 5.5-7 Zone; Ales Riley, Architect, Dylan Riley, applicant Jojana Nineth, Quiroa Orozco, Clavier Edvin and Cifuentes Calderon, owners; CEQA categorically exempt per Section 15303(a) and 15332.

Principal Planner Neal presented the staff report. The applicant has redesigned the parking/driveway to be located out of the required minimum combined side yard setbacks. They also revised the project to more centrally locate the house. She referred to Resolution No. 2020-11, page 4, Condition of Approval #8 and stated the last sentence about pruning should be deleted. On page 3, Condition of Approval #2 should include the following: VI. The construction plan should include a plan for workers carpooling to and from the site.

Commissioner Fragoso asked about the letter from the neighbor asking for a continuance and asked whether they were up against the Permit Streamlining Act deadline. Principal Planner Neal stated “no”.

Commissioner Swift asked about the combined side setback. Principal Planner Neal stated decks were allowed to encroach into the required setback by two feet. This allows for an eighteen foot setback instead of the required twenty feet.

Commissioner Swift asked if staff received an arborist report with a Tree Protection Plan. Principal Planner Neal stated “no” and stated the Commission could add this as a Condition of Approval.

Commissioner Rodriguez asked if shifting the house a bit would conflict with that existing wood wall. The lot is not that sloped and it was not a bit deal whether they centered it more or not. Principal Planner Neal agreed. The wood wall was not significant and is not holding anything up. Commissioner Rodriguez asked if this would affect the uphill bio-retention dissipater. Principal Planner Neal stated “no”.

Chair Green referred to the staff report, page 4, “Drainage and Slope Stability, and asked if they have decided on an interior spread footing with grade beams or a drilled pier and beam foundation. Principal Planner Neal stated the applicant could answer that question but either one is acceptable to the Town Engineer.

Commissioner Fragoso referred to shifting the location of the house and asked if this should be reviewed by the Town Engineer. Principal Planner Neal stated she did not think so but the Commission could add this condition.

Chair Green opened the Public Hearing.

Mr. Dylan Riley, owner/applicant, made the following comments:

- The southern exposure lends itself well to the use of passive solar technology.
- The square footage arises from the need to step down the hillside to mitigate the amount of excavation.
- Some of the square footage is simply stairwells that enable them to access the rest of the house.
- This is a simple, modestly sized house. There are limitations to the property.
- The master bedroom is 130 square feet and the children’s bedrooms are a bit less.
- They have taken steps to develop a house that is appropriate for the neighborhood and works with the site and the community.

Commissioner Swift stated the Tree Permit Request is for one tree that was within the building envelope and she asked if there were plans to remove or alter the vegetation outside of the envelope. Mr. Riley stated they might need to prune some of the Oaks.

Commissioner Swift asked if they were proposing moving the structure five feet over. Mr. Riley stated that was the compromise in order to assuage the neighbors.

Commissioner Fragoso asked if the neighbors request for a continuance occurred before or after the discussion about relocating the house. Principal Planner Neal stated the continuance was requested by the neighbors who would be affected by the relocation (it is moving towards their property). They want a chance to review the plans.

Ms. Margaret Elliott, Ridgeway Avenue, made the following comments:

- She lives across the street from the project.
- It will be a lovely house.
- The project looks higher from the street than she originally thought it would be.

- The other houses on that side are one-story.
- It will be out of character with the neighborhood.

Ms. Jessica Green, Ridgeway Avenue, made the following comments:

- The project looks very tall according to the story poles.
- It does not look like the other houses.
- It is sticking up in the sky and will be ugly.
- The project is not providing enough parking.

Chair Green closed the Public Hearing.

Commissioner Swift provided the following comments:

- The story poles were taller than the surrounding residences and stood out.
- The plans indicate a portion of the building that extends above the rest of the building like a tower.
- She would like the tower element lowered so it fits in better behind the garage and blends in with the surrounding residences.
- She suggested a continuance to allow the neighbors to review the plans.

Chair Green provided the following comments:

- He had the same concern about the tower element- it seems rather large and tall.
- A continuance makes sense partly due to the neighbor's concerns.
- The lot size is large (5,864 square feet) but the project is only 1,549 square feet.
- It is not a large house in volume.
- He likes the house.

Commissioner Fragoso provided the following comments:

- The project is providing off-street parking for three cars.
- The elevation sketch does not depict a large garage.
- The project is 27 feet at its highest point which is eight feet lower than what is allowed.
- She likes the design.
- It is not too big for the site.
- The tower would provide heat and light.
- The neighbors do need an opportunity to review the revised plans.

Commissioner Newton provided the following comments:

- These are beautiful drawings.
- She agreed with Commissioner Fragoso.
- The tower height does not offend her- it is stepped back.
- She supported a continuance.

Commissioner Clark provided the following comments:

- She looked at the story poles and they seemed kind of tall.
- It is not super large compared to the other houses in the neighborhood.
- The topography and the minimal amount of grading are contributing to the "large" appearance of the project.
- She would like to see some design options that would minimize the appearance of bulk.

Commissioner Rodriguez provided the following comments:

- She agreed with the comments made by Commission Swift.
- The Commission should review the revised plans including the five foot shift.
- The applicants need to communicate with the neighbors.

M/s, Swift/Newton, motion to continue this application to the next meeting

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

ABSENT: Gonzalez-Parber

3. Consideration of digitized/georeferenced Zoning Chapter 17.060 Ridgeline Development Visual Resources maps and code language

Planning Director Berto presented the staff report. He discussed how the 100-foot vertical and 150-foot horizontal boundaries are applied and the staff recommendations.

Commissioner Fragoso stated she is in agreement with the concept that is being presented by staff. She agreed there were major ridges that end in small, sloped hills that should not be considered a part of that ridgeline. The drawings might need to be tweaked so the average person can understand them.

Chair Green referred to the five parameters on page 2 of the staff report and stated they need to be clear to applicants. It ultimately needs to hold up in an appeal. He would like to see how an application would be examined under the proposed language. Planning Director Berto stated staff would come back with an example.

Commissioner Swift referred to the staff report and staff's concern that lot of the properties would fall under the Hill Area Residential Development Code that should not. She asked why properties would come under this overlay zone. Planning Director Berto stated he would have to research this issue.

Commissioner Swift asked about the four maps referred to on page 3 of the staff report. Planning Director Berto stated these were: 1) The original, non-digitized, non-georeferenced Visual Resources Map No.9; 2) The digitized georeferenced version of #1; 3) The 150-foot horizontal distance map; 4) The 100-foot vertical map.

Commissioner Swift asked which of the major ridges was the tallest. Planning Director Berto stated probably the top of Marinda at the boundary between Fairfax and Sleepy Hollow or the very top of the Fairfax Ridge.

Commissioner Swift cited the Ridgeline Ordinance's definition of an "adjacent ridge" and asked if digital mapping could identify if a structure would break that horizontal 150-feet on the ridgeline when looking at it from focal points or if it is with the 100-foot vertical distance. Planning Director Berto stated he was not sure there were that many "adjacent ridges".

Commissioner Swift stated the Ridgeline Development Code was initiated by Ordinance No. 352, passed in 1973, and she asked if staff found any documentation with respect to legislative intent in the following years. Planning Director Berto stated "no".

Commissioner Newton had questions about the application of the 100-vertical foot to the Fairfax Ridge or the Bald Hill Ridge vs. the Glenn Drive Ridge or the Marinda Ridges. Planning Director Berto stated the green color depicts the 1974 Scenic Corridor and the mauve color depicts the 100-foot vertical drop. The fingers extending out are the "finger ridges" and development on those could be more visible.

Commissioner Rodriguez referred to the revised Zoning Ordinance language and had questions about Appendix A and B. She referred to Attachment 1A, "Glen Drive Ridge", and asked what code would apply to development in the penepplain areas. Planning Director Berto stated the regular code since the penepplain is the flatland and not the Ridgeline Scenic Corridor (RSC). Commissioner Rodriguez referred to the same attachment and asked why some portions of the same elevation (i.e. 284) were in or out of the RSC. Planning Director Berto discussed the assumptions that are made in

terminating the RSC before it drops the full 100-feet. They are not picking an elevation and calling that the bottom.

Commissioner Newton referred to the maps and asked if there was an objective way of describing the distinction between areas in the gold vs. the white. Planning Director Berto discussed the assumptions and rules that were made.

Chair Green stated one way to be objective would be to have a definition for certain, named ridges and a formula for the unnamed ridges. The ordinance talks about “major” and “minor” ridges and perhaps they should be named. Planning Director Berto stated the 100-foot vertical measurement is challenging but the maps are very accurate and allow a property owner to figure out, through the help of MarinMaps, whether they are in or out of the RSC. Properties that are both partially in and partially out would need to get a survey. This is an important project that should not be on the back-burner.

Chair Green opened the meeting to public comments.

There were no comments.

Chair Green closed the meeting to public comments.

Chair Green stated he would need to see how the revised Zoning Ordinance language works based on an application.

Commissioner Newton stated she likes the proposed language and stated Appendix B provides an explanation on how they could justify this process as being objective.

Commissioner Swift stated she was not comfortable making the changes. She would like to see an example of how the 150-foot horizontal or 100-foot vertical, whichever is greater, applies in a real case scenario. She is concerned that the maps are focusing on the Town limits and not the Fairfax Planning Area. The Visual Resources Map is the Fairfax Planning Area and includes visually significant area.

Chair Green supported the revised Zoning Ordinance but suggested the following revisions: 1) In Appendix B(a) the language “where the bottom of the ridge meets the flatlands portion” is vague and he would like to define it as a percent of slope; 2) In Appendix B(c) the language “distance an appreciable uphill slope is encountered” could also be defined as a percentage slope.

Commissioner Newton stated the map legends should reflect what is included in the ordinance.

Planning Director Berto stated staff would return with these revisions at the next meeting.

4. Discussion of Objective Design and Development Standards status

Planning Director Berto presented the staff report. He stated Opticos is the consulting firm working on a “tool kit” that local agencies can use to review multiple family housing applications. Yarbrough Architectural Resources (YAR) is working on identifying and cataloging the Town’s cultural and historical resources. The Commission’s Historic Subcommittee consists of Chair Green, Commissioner Fragoso, and Ms. Cassidy DeBaker, archeologist extraordinaire.

Commissioner Rodriguez asked Mr. Ed Yarbrough about his approach.

Mr. Yarbrough stated he is beginning to delve into the Historic Context Statement. He had originally planned on a lot of interaction with the Fairfax Historic Society and utilizing the efforts of volunteers

to record features of the different aspect of the downtown area. Social distancing has made this difficult. He is trying to come up with a description of what makes Fairfax unique and special. He discussed the different periods he would be looking at including the progressive era, counterculture movement, etc. He discussed how the “tool kit” could be applied to applications for downtown project. He noted they are not just considering the buildings but also the streetscapes, amenities, lighting standards, etc. They will also look at whether or not there is a qualifying or eligible Historic District in the downtown corridor.

Commissioner Rodriguez stated that sounded wonderful and she hoped Mr. Yarbrough would include sustainability and open space. Mr. Yarbrough agreed that this would be included along with other layers including the Italian influence.

Chair Green asked Mr. Yarbrough if he would be including the evolving art and music scene. Mr. Yarbrough stated “yes”.

Chair Green opened the meeting to public comments.

There were no comments.

Chair Green closed the meeting to public comments.

Commissioner Swift stated this is a major planning project with potentially significant impacts to the Town. She would like to see a robust community engagement effort and information on the Town Website. Chair Green agreed and stated Mr. Yarbrough’s PowerPoint presentation could be posted to the Website.

Commissioner Fragoso asked if the term “by right” has been adopted by all the local jurisdictions. Planning Director Berto stated there were two types of development- those that undergo discretionary review (Design Review, Use Permit, etc.) and those that undergo ministerial review. The latter is represented by a Building Permit (technical compliance) and requires no discretion on the part of Town staff. “By right” development is ministerial. He discussed the implications of the Housing Accountability Act. Commissioner Fragoso stated she would prefer the term ministerial as opposed to “by right”. Objective standards should be identified and represent the character and feeling of Fairfax that everyone wants to preserve.

The Commission thanked Mr. Yarbrough for his presentation and looked forward to working with him on this task.

MINUTES

5. Minutes from the October 15, 2020 Commission meeting.

M/s, Fragoso/Rodriguez, motion to approve the October 15, 2020 minutes as corrected.

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

ABSENT: Gonzalez-Parber

Commission Discussion Items

Chair Green noted this item was deleted from the agenda.

Planning Director’s Report

Planning Director Berto stated the County of Marin conducted an Accessory Dwelling Unit (ADU) Webinar which will be posted on the Town Website. The Tree Committee subcommittee had a

meeting with Marin County/Ross Valley Fire Department Chief Jason Weber about pyrophytic vegetation and how to preserve the Town's wooded landscape. They also discussed Bay trees and the Marin Wildfire Prevention Agency's (MWPA) work on an Evacuation Study. Last night the Council considered the appeal of the Planning Commission decision regarding the application for 6 Walsh Lane. There was a tie vote (one Councilmember recused) on a motion to deny the appeal which resulted in "no action" and approval of the Commission's original decision. A subsequent motion was made to continue the appeal and also resulted in a tie vote. The project can move forward as recommended by the Commission.

Commissioner Comments and Requests

Commissioner Swift discussed the Tree Committee subcommittee meeting which included a discussion of Vegetation Management Plans, Tree Permits, defensible space, etc. It was a productive meeting. There was consensus among the group that the Tree Ordinance needs to be reviewed. She would like the Commission to proceed with this along with a review of the process and application. Commissioner Rodriguez asked if they got clarity regarding the Fire Marshal's level of authority. Commissioner Swift stated this was discussed along with other topics. She noted the Fire Safe Marin Website has a lot of good information.

Commissioner Rodriguez encouraged everyone to attend the Fire Safe Marin's "Fire Wise" training on house hardening. She noted her homeowner's insurance continues to rise since she is in a Wildland Urban Interface (WUI) Zone.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:45 p.m. Respectfully submitted,

Toni DeFrancis,
Recording Secretary