

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

Call to Order/Roll Call:

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

Commissioners Present: Shelly 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

APPROVAL OF AGENDA

Chair Green stated he would like to hear the project applications prior to the discussion items.

M/s, Rodriguez/Newton, motion to approve the agenda with the change as recommended by Chair Green.

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Ms. Jessica Green, Fairfax, was concerned about people removing trees because of fire danger. Trees hold the hills together and soak up a lot of water that would otherwise run off and cause flooding.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

1. **169 Ridgeway Avenue; Application # 20-13 (Continued from November 19)
Request for a Hill Area Residential Development Permit, Ridgeline Scenic Corridor 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. 001-280-01; Residential RD 5.5-7 Zone; Alex 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 applicants indicated a willingness to shift the house five feet to the south (center of the property) to address the neighbor's concerns about visual impacts. This offer was presented right before the November meeting. The application has been re-noticed to include a Ridgeline Scenic Corridor Permit due to the current mapping. She suggested

the following changes to Resolution #2020-11: 1) The addition of Condition #50: "All utilities and cable shall be undergrounded in accordance with the Ridgeline Development Ordinance Section 17.060.050 #8(a); 2) Condition #46 shall read: "All exterior fixtures shall be Dark Sky compliant, fully shielded, and emit no light above the horizontal plane with no drop lenses, side light panels, or up-light panels and the lighting plan shall be submitted with the Building Permit application and be approved by the Planning Department prior to the issuance of the Building Permit. The lighting shall not emit direct off-site illumination and shall be the minimum necessary for safety".

Commissioner Fragoso asked if staff is recommending that the house not be moved down towards Chester Avenue because of the additional excavation that would be required. Principal Planner Neal stated staff is supporting the relocation to the center of the site. It would not require additional excavation.

Commissioner Fragoso asked if staff is recommending leaving the upper most portion of the roof at the proposed height. Principal Planner Neal stated "yes". The owner has provided an elevation depicting lowering that portion of the roof but they would prefer not to do so.

Commissioner Rodriguez asked if the current story poles represent the November 19th design and not the new red-line drawings dated December 9th. Principal Planner Neal stated "yes".

Chair Green referred to page 6 of the staff report and asked if the condition requiring a 24-inch box sized native tree should be added to the resolution. Principal Planner Neal stated this is up to the Commission.

Commissioner Newton asked staff to explain how they missed the Ridgeline Scenic Corridor issue the first time around. Principal Planner Neal explained.

Chair Green opened the Public Hearing.

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

- Principal Planner Neal gave a great presentation on the proposal.
- They have tried to create a reasonable house within the existing envelope.
- This is a small site.

Commissioner Rodriguez asked Mr. Riley if the elevation from the pavement of the roadway was 143.4. Mr. Riley stated he did not have that information in front of him. Commissioner Rodriguez stated the red lined revised plans seem to increase the height from the road to the walk up by two feet three inches to the front façade of the building. Mr. Riley agreed. Commissioner Rodriguez asked what happens to that interior space with the reduction of that tower structure. Mr. Riley stated this is the formal entryway that creates a welcoming space before entering the main level of the house. Commissioner Rodriguez asked how much the tower was being lowered on the revise plans. Mr. Riley stated two feet nine inches. Commissioner Rodriguez asked if this would be a hardship in terms if the amount of interior space. Mr. Riley stated it would be a disappointment but they were willing to discuss it.

Commissioner Swift asked Mr. Riley if he is willing to lower the roof over the entry stairs to that of the garage and if that is the same part of the structure referred to as the "central staircase feature". Mr. Riley stated "yes".

Commissioner Fragoso asked if the tower section was about thirty-two to forty feet from the roadway. Mr. Riley stated "yes".

Commissioner Gonzalez-Parber asked if the plate heights of the tower (from the Ridgeway side) were thirteen feet from floor to ceiling. Mr. Riley stated they would be a standard ceiling height

(eight feet) if they lowered the roof. Commissioner Gonzalez-Parber asked if the tower was six feet wide. Mr. Riley stated “yes”. Commissioner Gonzalez-Parber noted the height was double the width. Mr. Riley agreed.

Ms. Alex Riley made the following comments:

- They are trying to be cognizant of impacts to the neighbors.
- The visible element from Ridgeway is the garage which has been set back from the front property line.

Chair Green referred to page 3 depicting a dotted red line on the east elevation and a lowered tower and asked if that was the final plan. Principal Planner Neal stated the applicants would prefer not to make that modification and keep the house as designed. Chair Green asked if lowering that elevation would bring the ceiling height from thirteen feet down to eight. Mr. Riley stated “yes”.

Ms. Jessica Green made the following comments:

- It is important to go to the site.
- The project would be tall and imposing.
- It is nice that the applicant has agreed to lower the height of the tower.
- The project is not within the character of the houses on that side of the street.

Ms. Margarite Elliott made the following comments:

- She lives across the street from the project.
- She appreciates the offer to lower the tower. That would make a huge difference.
- It is a beautiful design but out of character.

Principal Planner Neal read the email from Mr. John Winston:

- He has privacy concerns regarding the following: multiple large windows facing 21 Chester; large deck that wraps around on the 21 Chester side and looks down into the yard.

Chair Green closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- The lot steeply slopes down going left (as one faces the site) and down the back side of the lot.
- The properties on both sides are set further down the hillside which makes the entry feature all the more prominent when viewed from the street.
- She prefers the revised drawings.
- She would like to hear more about the impacts to 21 Chester. Principal Planner Neal stated it is difficult to develop an infill lot with houses close together. It is a steeply sloped lot with not a lot of outdoor space- thus the decks. There are ways to deal with windows. They could require screening for the decks.

Chair Green provided the following comments:

- He thanked staff for the photographs.
- He appreciated the willingness to lower the tower.
- The project should kept as close to the original design as possible while addressing the neighbor’s concerns.
- He had a question about how the back deck was supported and asked if there was shallow bedrock. Principal Planner Neal stated “yes” and the Town Engineer is of the opinion there were no instability issues with the site.

Commissioner Swift provided the following comments:

- She asked if the decking on the right side (facing from the street) was more of a walkway. Principal Planner Neal stated “no” it is not the narrow width of a walkway.

- The central staircase feature adds to the mass of the structure. She supported lowering it as proposed.

Commissioner Newton provided the following comments:

- She is torn.
- Dropping the entry way down to the level depicted by the red line drawing would make it more monolithic with less articulation.
- She wondered if there was a compromise such as a one to two foot reduction.

Commissioner Gonzalez-Parber provided the following comments:

- She agreed with Commissioner Newton.
- The compromise might be eighteen inches.
- She would hate to lose that feature altogether.
- The bedroom windows need to be egress/rescue windows and could not be clerestory. They could be opaque.
- The great room windows would benefit from some form of privacy.

Chair Green provided the following comments:

- The north elevation goes up and the south elevation goes down and he asked how to identify where the ridgeline would be in relationship to the drawings. Principal Planner Neal stated the road is on the top of the ridgeline. It is not possible to move the house to get it out of the ridgeline corridor.
- He is in favor of minimizing the reduction in the height.
- The design is an upgrade for the area.

Commissioner Newton provided the following comments:

- She referred to Resolution No. 2020-11 and suggested the following amendments: 1) On page 1 list the General Plan references in order and delete the one that is duplicated (LU-7.2.2.); 2) On page 3, Condition #14 should refer to replacing the fruit tree with a 24-inch box sized native tree; 3) On page 3, the first "Whereas" should reference the additional plans that depict the height of the stairway entryway; 4) On page 10 add a condition about adding privacy plantings.

Chair Green provided the following comments:

- He referred to Resolution No. 2020-11 and stated the condition requiring installation of a 24-inch box native tree could be added on page 3, as 13 (a).
- He referred to page 2 under "Ridgeline Development" and asked about the reference to the maps since it has not yet been decided.

Commissioner Fragoso provided the following comments:

- She is not in favor of forcing them to make the design change of lowering the upper portion of the roof given the limited impact.
- The two foot modification would be indistinguishable and seems to be an arbitrary change.
- The house on the opposite corner of the proposed development seems to have a higher roof that is closer to the roadway.

Commissioner Gonzalez-Parber provided the following comments:

- A lot of thought went into the design.
- She understood the punctuation of the entry tower. It could be lowered a little bit and still get the "grand entrance" feeling. It did not have to go down to the level of the garage.
- The east elevation is imposing compared to the rest of the building.
- It is beautifully stepped down.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2020-11 and made the following amendments: 1) On page 5, Condition #8 should reference Chapter 8.36, and the last sentence should be deleted.

M/s, Rodriguez/Swift, motion to approve Resolution #2020-11 and Attachment "A" and modifying the resolution as follows: 1) On page 1, rearranging the references to Land Use Policies so they are in order and deleting the duplication of LU-7.2.2; 2) On page 3, under "Whereas" #1, the date of the architectural plans by Alex Riley shall be 11-1-20, and the plans will be modified to reflect the 12-9-20 date requiring that the entry feature roof be lowered down to the garage feature height, and adding to this condition a reference to the Open Space 1974 Visual Resources Map; 3) Replacing Condition #46 as recommended by staff; 4) The addition of Condition #50 as recommended by staff; 5) On page 5, Condition #8 should reference Chapter 8.36, and the last sentence should be deleted.

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

NOES: Fragoso, Gonzalez-Parber

Commissioners Fragoso and Gonzalez-Parber did not agree with the reduction of the height of the stairwell.

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

- 2. 53 Taylor Drive; Bennett House Apartments; Application # 20-15
Request for a Design Review Permit to construct a 270 sf maintenance building, 144 sf garden shed and an industrial generator enclosure for an existing 70-unit elderly/disable housing project; Assessor's Parcel No. 001-183-19; Planned Development PDD Zone; Mercy Housing California, owner; Matt Kozina, TWM Architects and Planners, applicant; CEQA Categorically Exempt per Section 15303(e)**

Principal Planner Neal presented the staff report. Staff is recommending the more extensive language about dark sky compliant lighting be included in the resolution as Condition #14.

Commissioner Fragoso asked if there was a requirement that the generator sit five feet or more beyond any adjacent property line. Principal Planner Neal stated the requirement is for a ten foot setback. Commissioner Fragoso asked if generators were required to have an enclosure. Principal Planner Neal stated she did not think so. This project is proposing an enclosure. Commissioner Fragoso asked if the property has solar panels. Principal Planner Neal stated "yes". Commissioner Fragoso asked if the generator would be tied to the natural gas line. Principal Planner Neal stated "yes". Commissioner Fragoso asked if there were discussions about building a power wall for emergency power as opposed to a gigantic generator. Principal Planner Neal stated the applicant would need to answer that question. She read the email from the applicant about using solar power for the generator. Additional solar would not be enough to power up the elevator.

Commissioner Newton stated the project includes paving a pathway and she asked if they would be using the type of concrete used in Town sidewalks that helps prevent slipping. Principal Planner Neal stated she did not know. Commissioner Newton stated she was also concerned about permeability. Planning Director Berto stated the Commission could add conditions to address these concerns.

Chair Green opened the Public Hearing.

Mr. John Minnelly, representing TWM Architects, made the following comment:

- They are happy to meet any sidewalk safety requirements.

Commissioner Rodriguez asked about the use of natural gas from a greenhouse gas emissions standpoint and generators overall. Solar with battery storage is preferable. She asked how much

additional solar would be needed to power this thing. Mr. Minnelly stated the engineers have studied the necessary loads and have found that a generator is the way to solve their needs. They decided to go with natural gas because it is the best alternative at this time.

Mr. Rich Cerrillo, representing Mercy Housing, made the following comments:

- These are some of the same questions they had early in the project.
- They were not that keen on this big piece of equipment as a long-term solution.
- The primary goal of this back up power is to serve the elevator which requires a significant amount of start-up power. This cannot be achieved with photovoltaic or battery back-ups.
- A gas generator is the only option.
- They could look into permeable concrete but it would cost more.

A resident made the following comments:

- She is a neighbor and her backyard abuts the parking lot.
- She has been plagued with noise during the rehabilitation work. Hammering starts at 8:00 a.m.
- The idea of adding two more structures is a problem.

Eliza made the following comments:

- She lives adjacent to the property.
- There is a lot of dust coming from the property.
- She asked how long the construction would go on.

Ms. Lisle Blach, Fairfax, made the following comments:

- She supported the installation of a generator.
- There have been reports of residents being trapped in apartments during power outages.

Chair Green closed the Public Hearing.

Commissioner Rodriguez provided the following comments:

- The Commission should include as a part of its Work Plan a prohibition in the use of natural gas in new construction and the conversion of existing natural gas to electric.
- Generators are higher in greenhouse gas emissions and noise pollution.
- She is not in support of the generator and the use of natural gas.
- They need to flesh out the solution with respect to solar.
- She supports the rest of the application.

Commissioner Clark provided the following comments:

- She wondered how long the current construction would be extended with the addition of the two out buildings.
- It is important for a senior facility to have access to an elevator during power outages.
- She supported the application.

Commissioner Newton provided the following comment:

- She wondered if there were less climate harming and neighborhood friendly technologies.

Commissioner Fragoso provided the following comments:

- She discussed attempts to get alternate power at her home including a power wall.
- She is not happy with the natural gas generator but this facility requires that the elevator functions at all times.

Chair Green provided the following comments:

- If everybody in Fairfax had generators there would be a lot of smoke and pollution.

- The natural gas choice for a generator is probably the least polluting and a reliable source of constant fuel.
- They should continue the application and ask the applicant to look into the possibility of solar plus battery.
- Noise is an issue to the neighbors.

Commissioner Swift provided the following comments:

- She supports the project and would like to approve it tonight.
- The applicants have researched alternatives which are not possible at this time.
- A stand-by generator is needed.

Commissioner Gonzalez-Parber provided the following comments:

- She supports the project.
- There are not a lot of alternatives for commercial grade generators.
- This is an important safety issue for the facility.

Commissioner Fragoso provided the following comments:

- She asked if an enclosure for the generator was included in the plans. Principal Planner Neal stated it was described as being enclosed in a cabinet and is shown on the last page of the plans.
- The generator is in a good spot on the site.
- There must be a separate enclosure to attenuate the noise of a generator this size.

Chair Green provided the following comments:

- He is slowly being talked into the importance of the health and safety issues.
- The solar option should be explored and replaced as soon as possible.

M/s, Swift/Newton, motion to approve Resolution No. 2020-12 with the following amendments: 1) On page 3, Condition #7, a correction to the spelling of *Claus* Circle; 2) One page 3, Condition #3, the addition of the following: (a) "Require that the design of the concrete portions of the project promote proper drainage either by use of sufficiently permeable material or other design as well as ensure appropriate precautions for ensuring anti-slippage"; 3) The more extensive language about dark sky compliant lighting be included in the resolution as Condition #14; 4) Addition of Condition #3 (d); "Construction hours shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, 9:00 a.m. to 4:00 p.m. Saturday, Sunday and holidays".

Commissioner Rodriguez recommended a friendly amendment that would require a level two acoustic enclosure, Model SG080-9.0L and that the generator would only be used for emergency power outages. Commissioner Swift declined to include this in her motion. Commissioners Clark and Fragoso agreed it was reasonable to require that the generator be used only during power outages. Chair Green stated the resolution already says it is for emergency use.

Commissioner Fragoso recommended a friendly amendment to include allowed construction hours to the resolution, Condition #3 (d); "Construction hours shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, 9:00 a.m. to 4:00 p.m. Saturday, Sunday and holidays". Commissioner Swift agreed to this amendment.

Chair Green called for the vote.

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

NOES: Rodriguez

Commissioner Rodriguez stated she supported the maintenance shed and garden sheds but is not in support of the generator since it uses natural gas and contributes to greenhouse gas emissions. The applicants have not provided alternatives.

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

The Commission took a 5-minute break 9:50 p.m.

Commissioner Clark left the meeting.

3. 18 Napa Avenue; Application #20-16

Request for a Use Permit, Variance, Floor Area Ratio (FAR) Exception and Design Review Permit to raise an existing 2 unit structure 4 feet in height to elevate the finished floor of the first floor out of the flood way in compliance with FEMA regulations, and expand and legalize the existing Accessory Dwelling Unit (ADU) on the first floor; Assessor's Parcel No. 002-122-10; RD 5.5-7 Residential Zone, High Density District; John Fitzpatrick, owner; Laura Kehrlein, Divine and Associates, Architect; CEQA Categorically Exempt per Sections 15301(e)(1) and 15303(a).

Principal Planner Neal presented the staff report.

Commissioner Fragoso asked where one would locate a map of the FEMA Flood Zones. Principal Planner Neal stated on MarinMap.

Commissioner Swift asked what is meant by a Base Flood Elevation (BFE) of 106 feet. Principal Planner Neal stated it was the elevation above sea level.

Commissioner Swift asked about the existing and proposed dimensions of the upstairs rear deck. Principal Planner Neal stated the deck was going from 6' X 11" to 8' X 12'.

Commissioner Swift stated the Accessory Dwelling Unit Code, Section 17.048.010(h), gives the Commission the ability to do a Conditional Use Permit (CUP). She discussed some of the restrictions including rental terms of less than 30 days and the requirement for a deed restriction. She asked if these elements would still be applicable. Principal Planner Neal stated "yes". Commissioner Swift stated she would like to see this reflected in the resolution.

Commissioner Rodriguez referred to page 3 of the staff report and asked what is meant by "the site is in the FEMA floodway". She interprets the "floodway" as being the center portion of the deepest portion of a flood channel. No construction would be allowed in the "floodway". Principal Planner Neal stated FEMA does not prohibit construction but requires that any changes that would affect the floodway waters are mitigated by opening up the channel somewhere else on the property.

Commissioner Newton discussed the FEMA Flood Map and the Nation Flood Insurance Company sponsored by the Federal Government. She questioned whether the five foot increase in height would get FEMA approval and assurances from the insurance company

Commissioner Fragoso asked if the Elevation Certificate confirms that this work would get the project out of the floodway. Principal Planner Neal stated "yes" and the work would not modify the way the water flows. The design is approvable by FEMA.

Chair Green opened the Public Hearing.

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

- The dimensions for the deck are as follows: currently it is 4'6" deep by 7'9", and the proposal is 6' deep by 8'9". It has to be rebuilt due to the lifting of the building and she is trying to make it more usable.
- She referred to the letter from the flood engineer that noted that the structures at 20 Napa and 86 Mono were upstream and create obstructions to the flood way already.
- The concrete slab on grade is one foot below the Base Flood Elevation (BFE). FEMA requires any new finished floors to be a minimum of one foot above the BFE.
- The current 6'8" ceiling heights will increase to 8 feet.
- The building will be lifted and new walls will be replaced below the upper floor.

Mr. John Fitzpatrick, applicant, made the following comments:

- Getting the house out of the flood plain is a big deal.
- They are eliminating the wood burning fire place.
- The project will make the downstairs more livable.

Chair Green asked if they were installing a sump pump. Mr. Fitzpatrick stated "no".

Commissioner Rodriguez stated she was concerned about the impacts to 16 Napa, the single story property to the right of the project. Mr. Fitzpatrick stated they do not block their sun since it comes in from the other direction. The houses are already very close together and he did not think they would notice any change. Ms. Kehrlein stated those were five feet wide egress windows. The window on the west side has to be an egress window because of the way the staircase works.

Commissioner Rodriguez asked if the five foot increase in building height consisted of two feet to address the flood issue and three additional feet to increase the interior ceiling heights. Mr. Kehrlein stated "yes".

Commissioner Newton asked if the plan included fencing in the back on the alley side. She was concerned about the wildlife in the alley way. Mr. Fitzpatrick stated he was open to suggestions. Commissioner Newton asked if they would consider fencing the Oak so it was still in the alley. Mr. Fitzpatrick stated "yes".

Commissioner Fragoso referred to the façade of the property and asked Ms. Kehrlein if the proposal was for two or three tall windows on the left. The plans (color scheme) indicate a single square. Ms. Kehrlein stated they do not plan to make any changes to the upper floor windows. The upper floor will basically stay the same.

Commissioner Gonzalez-Parber noted there is a stucco finish and she asked Ms. Kehrlein if they thought about breaking up the plane through use of a color change. Ms. Kehrlein stated there will be an overhang going around the building which would help break up the plane. Commissioner Rodriguez asked if that would happen on the west elevation. Ms. Kehrlein stated "yes". Commissioner Gonzalez-Parber suggested a color or material change of some kind with review and approval by the Planning staff. Mr. Fitzpatrick stated he did not mind a color change.

Commissioner Swift stated she was concerned that the upper deck on the side of the one-story home would overlook the neighbor's yard. She asked Ms. Kehrlein if they would consider some type of screening. Mr. Fitzpatrick stated "yes" but the increase in height would not make that much of a difference. Commissioner Swift suggested a lattice or something to block the view.

Commissioner Newton noted they were lifting the bottom floor a foot above the flood level and she asked if the owners were sure this would get them a discount in their insurance premium. Mr. Fitzpatrick stated the bottom floor would be three feet above the flood level. He did not check with his insurance company. Ms. Kehrlein stated they are proposing a floor level of 108.7 and the BFE is 106.

Chair Green closed the Public Hearing.

Commissioner Newton provided the following comments:

- She supported approval of the project.
- An uninterrupted line of fence down the alley is unfriendly to wildlife.
- She referred to Resolution No. 2020-13 and suggested the following modifications: 1) Addition of Condition #2 requiring some portion or all of the Oak on the northeast corner of the property be excluded from fencing of the yard on the Mono Alley piece of the property; 2) On page 4, Condition #7 shall add Mono Alley to the list of public roadways that should be protected.

Chair Green provided the following comments:

- He supports taking an existing home and making it safer.
- He supports the project.
- It is a great design.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2020-13 and suggested the following modifications: 1) Condition #1 shall include: "The ADU may not be rented for a term less than 30 days"; 2) On page 3, add Condition #2(g): "Prior to issuance of the building permit a deed restriction in conformance with Code Section 17.048.010(e)(7) shall be completed".

Commissioner Fragoso provided the following comments:

- She liked the idea of the trim and the garage door being a different color.
- The new front facing steps would help break up the monotony.

M/s, Fragoso/Gonzalez-Parber, motion to adopt Resolution No. 2020-13 with the suggested edits and following modifications: 1) Addition of Condition #2 requiring some portion or all of the Oak on the northeast corner of the property be excluded from fencing of the yard on the Mono Alley piece of the property; 2) On page 4, Condition #7 shall add Mono Alley to the list of public roadways that should be protected; 3) Condition #1 shall include: "The ADU may not be rented for a term less than 30 days"; 4) On page 3, add Condition #2(g): "Prior to issuance of the building permit a deed restriction in conformance with Code Section 17.048.010(e)(7) shall be completed".

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

NOES: Rodriguez

ABSENT: Clark

Commissioner Rodriguez stated she voted "no" because of 16 Napa.

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

2. Amendments to Town Code Title 17: Zoning, Chapter 17.060

Consideration and possible recommendations to the Town Council to adopt an Ordinance amending Fairfax Chapter 17.060 Ridgeline Development of Town Code Title 17 Zoning, to incorporate references to maps as Exhibits that show Ridgeline Scenic Corridors as defined in the Chapter, and amend Chapter text to further clarify the ridgeline boundaries.

Planning Director Berto presented the staff report.

Chair Green stated this solves all the problems they have been discussing. He has no suggested changes.

Commissioner Swift asked staff to explain the following statement: "The outer Ridgeline Scenic Corridor (RSC) boundary located at the mid-point of the swale before an appreciable uphill slope begins". Planning Director Berto gave an explanation.

Commissioner Swift referred to the Attachment "B" and noted the red line indicating the Glen Drive Ridge was outside the Town's boundaries. Planning Director Berto stated this is an area where the Town does not have jurisdiction. Commissioner Swift stated this was a concern.

Commissioner Swift asked if the maps were posted to the on-line packet for public review. Planning Director Berto stated the maps were attached to the staff report.

Commissioner Swift asked if any of the visually significant areas on Map No. 9 fell under the Ridgeline Development Code. Planning Director Berto stated he would have to do more research but would be surprised if the 100-verticle foot RSC would capture some of that.

Commissioner Newton was confused about the nature of the attachments to the recommended revisions to the ordinance in term of the descriptions. She discussed the attachments.

Commissioner Gonzalez-Parber stated the attachments were very helpful. She asked how a parcel that is partially in the RSC would be treated and when the limitations would "kick in". Planning Director Berto stated the restrictions would not apply to the portion that is outside the corridor. A combination area would be subject to it. There would be an incentive to develop outside of the RSC.

Commissioner Newton referred to the proposed code revisions and asked why they were replacing all the definitions with one definition. Planning Director Berto stated he would defer to the Town Attorney.

Chair Green opened the meeting to public comments.

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

- He asked who the Town hired as a consultant. Planning Director Berto stated the consultant is a GIS Specialist.
- He referred to Attachment "B" and asked where the top of Jolly Hill was located. He asked if it showed up as purple, blue, or green in the color codes. Planning Director Berto stated "all of the above".
- When applying the RSC regulations, it is difficult to compare the prior application on Ridgeway with undeveloped RSC properties. There are homes on either side of the Ridgeway project but no homes near the Marinda Heights project.
- Now is not the time to modify and weaken restrictive language in the General Plan or Town Codes. There is a major application pending.
- He is not sure if this recommendation strengthens or loosens the restrictions. It is hard to tell.

Chair Green closed the meeting to public comments.

Commissioner Newton provided the following comments:

- She is dissatisfied with the proposed revisions to the code because they delete the existing definitions of "adjacent ridge", "major ridges", "significant view corridors", and "utility lines" and replace them with a reference to a map. Planning Director Berto clarified it would simply replace the "ridgeline scenic corridor" definition.
- She suggested the following wording: "Section 17.060.020 is hereby amended in its entirety to read..."

Commissioner Rodriguez provided the following comments:

- They started down this road with the idea of taking the Mylar map and making it GIS and to provide language that protected the ridgelines.

- Then they slipped into what is being presented.
- They started to talk about the Town being at a particular elevation and the maps show the physical ridges dropping into the Town and they should not fall into this zoning designation.
- She is concerned that the maps are not addressing this issue.
- There is no context to the maps.
- Horizontal and vertical topography lines are being eliminated that are in areas of 380 elevation because they do not fall onto the ridge.
- This is weakening the ordinance.
- Where the Commission started when they first begin discussing this issue and where they are now is not the direction she wants to go.
- There is new language in the ordinance that is concerning.
- She would like to see the Commission move to stop any further consideration of this issue.

Chair Green provided the following comments:

- He asked if it might be a good idea to have a Joint Meeting with the Town Council about this issue. Planning Director Berto stated he would suggest this to the Town Manager.
- They have accomplished a lot.
- He referred to page 2 of the staff report and supported the proposed Revised Zoning Ordinance Language.

Commissioner Swift provided the following comments:

- She agreed with Commission Newton's comments about the code definitions.
- She thought the definition of "ridgeline scenic corridor" and "adjacent ridge" might be in conflict.
- They are looking at one piece and not the whole code.
- Defining and mapping only within the Town boundaries is inconsistent with the General Plan Open Space Element. It should include the Fairfax Planning Area.
- She does not know how the "visually significant areas" would be impacted.
- She could not approve moving this forward to the Town Council.

Commissioner Newton provided the following comments:

- She objected to the suggestion that the existing ordinance is lacking a map.
- She agreed with Commissioner Swift- they cannot take this piece by piece.

Commissioner Gonzalez-Parber provided the following comments:

- She is now confused about the objective in practical terms.
- As a designer she is excited about the exhibits- they are a tool that is real and could be used to guide clients.
- She did not want to get bogged down in the details.
- She was not sure where the conflicts were.
- She does not want to "throw in the towel" but wants to move forward.
- Creation of a 3-D model might be helpful.

Commissioner Newton provided the following comments:

- She was not able to find the maps that are supposed to be attached to the code revisions.
- There are ten to eleven sections of this chapter ("Ridgeline Development") that are short and relatively concrete and finite.
- There could be an option for creating a tool for the community vs. changing the code.
- She did not want to "throw in the towel" either but wants to continue and take a holistic approach.

Commissioner Fragoso provided the following comments:

- When this process started it was not the intent to review and update the Ridgeline Ordinance.

- The intent was to create maps that were more helpful for someone coming in with a development application.
- These maps allow residents to overlay parcel maps in order to figure out what entitlements must be secured for a project.
- This product is an excellent tool.
- She would like to see a map depicting the Marinda Heights Project (a.k.a. Wall property).
- The maps are too small.
- She would like to send this to the Town Council.

Chair Green provided the following comments:

- He was not sure why there was a concern about the areas outside of the Fairfax boundary not being included in the maps.
- He agreed with Commissioners Gonzalez-Parber and Fragoso- they need a tool that explains the ridgeline issues.
- They do need to amend the ordinance language in order to enable the use of the maps.

Commissioner Swift provided the following comments:

- They have a responsibility, per the General Plan, to the Fairfax Planning Area.
- The original Map No. 9 was the Fairfax Planning Area and the current maps leave out ridgelines that are outside of the Town's boundaries.
- These ridgelines outside of the Town's boundaries need to be mapped or they could be impacting the view of the ridgelines from the community.
- She is not comfortable throwing away the Fairfax Planning Area.

Chair Green provided the following comments:

- He agreed the maps need to include the contiguous areas as depicted by the original map.
- He reiterated the lack of jurisdiction over these areas.
- The ordinance does not need to include anything about the areas outside the Town's boundary.
- Perhaps they should send this to the Town Council and let them hash it out.

Planning Director Berto stated the cumulative map should show the entirety of the area. Staff will fix that.

Commissioner Newton provided the following comments:

- She is not suggesting an overhaul of the ordinance but rather a more comprehensive approach.
- She does not want to give the Town Council something that is not "fully baked".

Commissioner Gonzalez-Parber provided the following comments:

- This information should be available to the public electronically.
- This is a great tool.

Planning Director Berto stated additional work can be done along with some clarifications. Staff will submit this to the Commission in January.

3. Housing Element Update Work Program Discussion

Chair Green noted the late hour and suggested continuing this item.

M/s, Fragoso/Swift, motion to continue this item to the January meeting.

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

ABSENT: Clark

4. Election of Chair and Vice Chair for the year 2021

M/s, Fragoso/Swift, motion to elect Commissioner Rodriguez as Chair.
AYES: Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green
ABSENT: Clark

M/s, Swift/Fragoso, motion to elect Commissioner Newton as Vice Chair.
AYES: Fragoso, Gonzalez-Parber, Newton, Rodriguez, Swift, Chair Green
ABSENT: Clark

The Commissioner thanked Commissioner Green for his year of service as Chair.

5. Minutes from the November 19, 2020 Planning Commission meeting

M/s, Swift/Rodriguez, motion to approve the November 19, 2020 minutes as submitted.
AYES: Fragoso, Newton, Rodriguez, Swift, Chair Green
ABSENT: Clark
ABSTAIN: Gonzalez-Parber

Planning Director's Report

Planning Director Berto reported the Objective Design and Development Standards (ODDS)/Historic Subcommittee met on November 3rd with the Opticos design team and Historic Consultant Ed Yarborough. They went over the tool kit/draft ordinance. The historic context of this work is crucial.

Commissioner Comments and Requests

Commissioner Swift asked when the Webpage for the ODDS project would be posted. Planning Director Berto stated within two weeks.

Commissioner Rodriguez asked if any Commission decisions were recently appealed to the Council. Planning Director Berto stated he spoke about the appeal of 6 Walsh at the last meeting.

Commissioner Newton referred to the public comments during non-agenda items about the sound of chain saws in the hills. The Tree Committee has a good record of trees that are slated to be removed and the public could call Town Hall for more information.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:30 a.m.
Respectfully submitted,

Toni DeFrancis,
Recording Secretary