

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, FEBRUARY 18, 2021

Call to Order/Roll Call:

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

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

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

APPROVAL OF AGENDA

Commissioner Newton recommended switching items #3 and #4.

M/s, Newton/Green, motion to approve the agenda with items #3 and #4 switched.

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

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

- 1. 1930 Sir Francis Drake Blvd.; Application #20-02**
Request for a Formula Business Conditional Use Permit and recommendations on a Design Review permit, Sign Permit and scoring of a medical cannabis dispensary/adult delivery business permit for recommendations to the Town Council; Assessor's Parcel No. 001-223-10; Central Commercial CC Zone; Element 7 Fairfax LLC, Applicant; Adham Nasser, owner; CEQA Categorically Exempt per Section 15301(a)
This item has been continued to the March 18, 2021 Meeting

- 2. 48-52 Bolinas Road; Application # 21-01**
Request for a Design Review Permit to remove the existing shingled mansard style roof and replace/repair façade of existing commercial building; Assessor's Parcel No. 002-115-15; Central Commercial CC Zone; Leyla Hilmi, applicant/architect; Peter and Norma Lydon, owners; CEQA categorically exempt per Section 15301(a)
This item has been continued to the March 18, 2021 meeting

M/s, Fragoso/Green, motion to continue the two Consent Calendar items to the March 18, 2021 meeting.

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

PUBLIC HEARING ITEMS

4. 63 Spring Lane; Application #20-03

Request for a Hill Area Residential Development Permit, Design Review Permit, Excavation Permit, Retaining Wall Height Variance, and a Tree Removal Permit to allow the construction of a three story, 2,511 square foot, 3 bedroom, 2 ½ bathroom single-family residence with an attached 648 square-foot garage/storage; Assessor's Parcel No. 002-174-05; Residential Single-family RS-6 Zone; Doug Thompson, Architect/applicant; Stacy and John Peoples, owners; CEQA Categorically exempt per Section 15303(a)

Principal Planer Neal presented the staff report. She recommended the following additional condition: 1) "The owner provide access easements across APN 2-174-05 for all applicable utility agencies, the Town of Fairfax, and the owners of the two parcels to the east. Due to the proximity of the driveway retaining wall to the existing residence the retaining wall and construction sequencing must be designed to maintain adequate lateral support for the property and improvements at 65 Spring Lane and include a detailed shoring plan and structural plan submitted at the Building Permit stage to be reviewed and approved by the Town Engineer". She noted the design changed subsequent to review by the Tree Committee and therefore, their action does not include a recommendation for tree #34. The Commission has the authority of act on this tree without a recommendation of the Tree Committee.

Commissioner Green asked if there was a tie-in between the fifteen-foot retaining wall and the fire truck turnaround. Principal Planner Neal stated "yes".

Chair Rodriguez had questions about the subdivision, Attachment B, Attachment E, and Plan A1.0B, and which lots could be developed in the future. Principal Planner Neal responded.

Chair Rodriguez had questions about the California Environmental Quality Act (CEQA) determination. She noted there is open space and undeveloped properties nearby. Principal Planner Neal responded.

Chair Rodriguez referred to Attachment E, page 2, the seventh bullet, and asked if staff compared the two Grading Plans. Principal Planner Neal stated "yes".

Commissioner Newton referred to Attachment B and asked when the merger of Lots "I" and "J" occurred. Principal Planner Neal stated she would need to look that up. Commissioner Newton asked if these parcels were identified in the General Plan as Open Space. Principal Planner Neal stated "no".

Chair Rodriguez opened the meeting to public comments.

Ms. Stacy Peoples made the following comments:

- They want to be stewards of the land.
- They want to design a house that fits the site and the nature around it.
- This is an uphill slope.

Mr. Doug Thompson, architect, made the following comments:

- He displayed the drawings.
- The first task was to solve the fire apparatus access and turning.
- The Spring Lane right-of-way and the unimproved right-of-way in front of the property are only 20 feet wide.

- Spring Lane ends in a dead end.
- He discussed the technical aspects of the fire truck access (radius, slope, etc.) and noted it determines where the house is going to go.
- Engineering standards determine where the garage pad would be located.
- The house is stepped up the property from the garage. This keeps the overall footprint smaller by stacking the floors.
- The top floor is close to grade.
- The house has been rotated to an east/west axis on the site so it runs parallel to the contours and minimizes excavation.
- The roof has a shed design and runs parallel to the grade.
- The highest part of the roof is at the back of the house. This helps minimize the perceived view of the house.
- The master bedrooms are at the east end of the house.
- They will create a patio area from fill.
- They have reduced the apparent mass of the house by using two different materials.
- The stairway element will not appear as a tall element.
- He discussed the materials for the house.
- He discussed the heights of the retaining wall relative to the slope.
- It is 60 feet from the street edge to the high point of the retaining wall. Landscaping will help to mitigate the height of the wall.
- More than half of the excavated material happens because of the fire apparatus access and turn.
- About 40% of the excavated material for the house will be kept on site.

Commissioner Gonzalez-Parber asked if they had to get an easement from the neighbor to build the fire truck access. Mr. Thompson stated “yes”. Commissioner Gonzalez-Parber asked about the future easement for the undeveloped lots. Mr. Thompson stated this project was responsible for providing the access from the fire truck staging area in the driveway back onto the public right-of-way. They will provide a recorded easement during the Building Permit phase.

Commissioner Gonzalez-Parber asked about the materials for the fire truck access. Mr. Thompson stated the driveway and fire truck access would be paved with asphalt. There would not be any permeable paving in this area.

Commissioner Newton asked about the landscaping and whether fencing would be use for the backyard. It abuts against open space and there should be free areas for wildlife to pass through. Mr. Thompson stated they are not proposing any fencing at this stage.

Ms. Peoples made the following comments:

- Most of the landscaping would be in the bottom portion of the lot.
- They have no plans for any kind of fencing.

Mr. Peoples made the following comment:

- They have been cleaning up the perimeter of the property including stakes, old fencing, barbed wire, etc.

Commissioner Newton asked if tree #34 would be subject to the one-to-one replacement plan. Mr. Thompson stated “yes”.

Commissioner Gonzalez-Parber asked if they looked at anything to break up the roof plane. It is 16’ at the rear. Mr. Thompson referred to Sheets A2.1 and A2.2 and described the configuration of the plan. He discussed the roof plan.

Chair Rodriguez asked about the topography height at the top of the ridge above the house and the elevation height of the top of the building. Mr. Thompson stated his topographic map does not extend to the top of the ridge. Planning Director Berto estimated that it is a couple hundred feet from the house to the top of the ridge. Chair Rodriguez asked if they were widening the road beyond the property line. Mr. Thompson stated "no". Chair Rodriguez had a question about the retaining wall guardrail and 4' fence. Mr. Thompson stated that was a code requirement. Chair Rodriguez stated she is concerned about the construction of the retaining wall, the use of soldier beams, the fence, guardrail, etc. Mr. Peoples explained this construction.

Chair Rodriguez referred to Sheet A2.3 the third floor decks and the bathroom windows and stated she had concerns about privacy. The neighbors have no other outdoor space other than their deck. Mr. Thompson stated the distance between the patio and the deck is substantial (about 91 feet). There will be new trees planted among the existing tree. Ms. Peoples stated the landscape plan will provide privacy.

Chair Rodriguez asked about the total amount of deck space and the associated grading quantities. Mr. Thompson stated the earthwork tables, that are broken down into three categories, are on Sheet C1. The site grading is essentially the patio areas.

Chair Rodriguez had question about the hydrology and was concerned about flooding downstream by water diverted from the construction onto Spring Lane. Mr. Thompson stated the civil engineers drainage plan (Sheet C3) depicts a large runoff retention facility to the west of the house buried in the ground. They also have a collection facility half way down the driveway. Mr. Dan Hughes, civil engineer, reiterated there will be a storage facility that will be metering the outfall. Water will not shoot out across Spring Lane.

Mr. Noel Buoy, Spring Lane, made the following comments:

- He appreciates the landscape plan that will provide some privacy.
- He has concerns about drainage off the subject property.
- There is a drainage trough that is degraded on the developed portion of Spring Lane below his house..
- He does not want to hold anything up and will talk to the property owners about his concerns.

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

- He asked if this parcel was originally a part of the Lezzeni estate.
- There was a massive landslide in the area in 2005 and he asked if it spilled over onto the proposed project site.
- This property is a Category 4 (high potential for instability) on the Landslide Abundance Map.
- He asked if this property would have sixty feet of frontage on the public right-of-way.

Ms. Thompson made the following comments:

- None of the slide occurred on this property.
- There are some spoils that are being removed.
- The property has about 120 linear feet on the public unimproved right-of-way.

Ms. Egger made the following comments:

- He is concerned about the stability of that hillside.
- The Town Code requires so much footage on a public street. Principal Planner Neal stated the property does have frontage (more than 65 feet) on a public street.

Chair Rodriguez closed the meeting to public comments.

Chair Rodriguez provided the following comments:

- This project is not exempt from the California Environmental Quality Act (CEQA).
- This is not an infill site.
- There is an extension of a water line, a sanitary line, an extension of the roadway, and creation of a fire turnaround.
- There is a watershed running through here, open space above it, and an owl issue.
- The cumulative build out of this area needs to be looked at.
- She referred to the material board and was concerned about the use of the cedar. It is too light.
- This is a complicated project but a beautiful design.
- The building façade is bland and high on the right side.
- She is concerned about drainage.
- She would like to see a landscaping plan. She wants to confirm that it conforms to the recommendations of the Tree Committee.

Commissioner Green provided the following comments:

- He likes the project.
- Providing a fire department turnaround is a big deal.
- The basic problem is whether or not the project might be CEQA exempt.
- He discussed one of the exemptions that would apply.
- He is concerned about the 15' wall.

Commissioner Gonzalez-Parber provided the following comments:

- They need to confirm whether or not the project is exempt from CEQA.
- She would like to see something happening with the roofline. It makes the building look more massive. It registers as the back side being having most of the mass vs. the front.
- The building should be lowered (2 ½ to three feet on the high end).
- The cedar siding looks pretty “blond”. If it is a stain it should match the site.
- There should be drainage and erosion control during construction.
- The design is beautiful but too tall on the back side.

Commissioner Swift provided the following comments:

- She supports the design.
- The lot is very sloped.
- They have taken the house and set it down in the lot and left most of the lot alone.
- There will be a lot of landscaping.
- She is fine with the third floor roofline and the height of the back.
- She supported the Excavation Permit, the Hill Area Residential Development Permit, and the Retaining Wall Height Variance. They are preserving as much of the natural beauty of the lot as possible.
- She supported the Tree Permit as submitted to the Tree Committee

Commissioner Fragoso provided the following comments:

- She is supportive of the project.
- This is a complex development due to the road construction and location.
- This project is in the hills, nestled among twenty other houses.
- It is complimentary to what is there.
- She was initially concerned about the height of the retaining wall but it is the bare minimum required by the Fire Department
- The improvements to the roadway are phenomenal.
- The dark color would make the house blend in.
- She does not have a problem with the sixteen foot bedroom wall.
- The Drainage Plan would result in a huge improvement over what currently exists.

- She is impressed with the landscaping that is kept to a minimum.
- The tree plan is impressive and she supported a one for one replacement.
- She does not have an issue with views. The property sits in a swale.
- The application could be continued to solve the CEQA issue.

Principal Planner Neal displayed the CEQA exemption and the definition of “urban”. Chair Rodriguez withdrew her concern.

Commissioner Newton provided the following comments:

- She referred to the Planting Plan A1.3a and stated it was very detailed.
- She likes the design.
- The color blends into the hillside.
- She has concerns about the tree that was not part of the Tree Committee’s decision. She would like them to weigh in on it if this is continued.
- She agreed with the Design Review Findings.
- She is on the fence with respect to the drainage.

Chair Rodriguez asked if the property owner received the revised resolution. Ms. Peoples stated “yes”.

The Commission discussed revisions to the resolution which are included in the motion.

M/s, Rodriguez/Newton, motion to adopt Resolution No. 2021-03 with the following revisions: 1) on page one under the 4th “whereas” include GP Open Space Policy 3.2.2; 2) On page 2, #8, architectural plans, the following modification, “A1.4 and A1.4a; 3) On page 3, “Whereas” Condition #1 will include the material board and the Tree Committee Approval action of 2/24/20; 4) On page 5, condition #15, reverting prior to the removal of any additional trees not approved by the Planning Commission; 5) On page 7, Condition #19 will include (c) The landscaping will be installed prior to the Occupancy Permit being issued; 6) On page 9, deletion of the number (#29) in front of the Ross Valley Fire Department and renumbering of all numbers after that; 7) On page 9, #37 should read “All vegetation within the 30 foot fire *defensible zone* shall be irrigated around structures”; 8) On page 9, Condition #38 shall be deleted; 9) On page 10, Condition #48 will be modified to read, “All the Districts rules and regulations *in effect...*”; 10) On page 11, Condition #54 should read: “Road closures....on *Spring Lane*”; 11) On page 11, Condition #55 shall be deleted; 12) On page 11, Condition #58 should be modified to read” Prior to the issuance of a Building Permit the applicant shall provide the Town with a Northern Spotted Owl survey that will include identification of any nesting sites within a quarter mile of the project site and recommendations for measures that will become conditions of project approval to minimize the negative effects of the construction on the birds...”; 13) On page 11, addition of a new Condition of Approval #57 that will read: “Drainage improvements that take the site water to the drainage channel along Spring Lane shall be accomplished in a manner that does not impede vehicle or pedestrian access to the unpaved Spring Lane fire road shall be shown on the Building Permit application, construction plan, and shall be subject to review by the Town Engineer, Planning Director, Building Official prior to the issuance of the Building Permit and prior to the issuance of the Occupancy Permit; 14) On page 11, the addition of Condition #60, “The owner and the neighbors shall prepare a landscaping plan for the area between the safety railing and the house at 65 Spring Lane and it shall be submitted prior to issuance of the Building Permit for review and approval by the Planning Director”; 15) On page 11, the addition of Condition #61, “The Tree Committee has approved the removal of trees, the Commission is approving the removal of one additional Oak tree, all planting shall be a one-to-one replacement”; 16) On page 11, the addition of a condition saying “Fencing for the property shall only be around the house and landscaping area and not around the entire property perimeter”; 17) On page 11, under “Now, therefore be it resolved” should read: The approval of the...*Retaining Wall Height Variance, Tree Removal Permit, Design Review Permit...*”.

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

Commissioner Gonzalez-Parber stated the height is still an issue and it is not appropriate to have a sixteen foot high master bedroom and bathroom/closet area.

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

The Commission took a 10-minute break at 10:15 p.m.

**3. Georeferenced Version of the 1974 Visual Resources Map
Consideration for acceptance of a georeferenced version of the 1974 Visual Resources
Map, with its designated Ridgeline Scenic Corridor, to be used as the basis for
determining parcel's location relative to the Ridgeline Scenic Corridor (RSC)**

Planning Director Berto presented the staff report.

Commissioner Swift had a question about Attachment A and said it looked like the original map. Planning Director Berto pointed out the change and stated it is subtle.

Commissioner Newton asked if this georeferenced map would be used by staff along with an interpretation of the Ridgeline Ordinance as limiting the parcels in the restricted area to those areas that are green on the map as opposed the entire area of blue and purple on the maps from last month. Planning Director Berto stated "yes". There was no consensus from the Commission to proceed on that basis.

Commissioner Gonzalez-Parber asked about application of the map to a parcel that is half way in the ridgeline and whether or not all the code restriction would apply to that parcel. Planning Director Berto stated the regulations would not be applicable to the portion of the parcel outside of the RSC. Staff would look more closely at the other definition.

Chair Rodriguez opened the meeting to public comments.

Ms. Lisle Blash made the following comment:

- She is excited about the map and hopes the Commission will move forward.

Mr. Frank Egger made the following comments:

- The January map had pink and purple bulb outs in an attempt to define the 100 and 150 foot references in the written document.
- He asked how an application would be affected if someone applies and is right on the edge of the green but within the 100 and 150 foot referenced areas. Planning Director Berto stated staff would be looking exclusively at the map and the Zoning Code.

Chair Rodriguez closed the meeting to public comments.

Chair Rodriguez provided the following comments:

- She is concerned because they will not be able to get back to this any time soon.
- The ordinance language is clear- the 100 to 200 feet add additional protection.
- Staff not using the 100 to 200 feet on applications coming before them- this is a missed opportunity.
- She likes the idea of having a georeferenced map.
- She cannot support it at this time.

Commissioner Fragoso provided the following comments:

- She is happy with what they are doing.
- She did not assume that staff is not going to take a stab at where the 100 feet is.
- A parcel map overlay would give them a much better sense of the 100 feet.

Commissioner Green provided the following comments:

- This is a great effort.
- He wants to make sure an applicant and staff can make a determination that is appealable.

Commissioner Newton provided the following comments:

- She does not read the ordinance the way they have been talking about it.
- She does not think that Ordinance 17.060 says that the protected area under the Ridgeline Ordinance is just the green area shown on Map No. 9.
- She discussed the ordinance and stated the purpose was to conserve the general public welfare, conserve existing scenic resources and the sense of community and neighborhood identity that are afforded by the un-urbanized open spaces on the ridgetops by preserving them. This purpose section is what matters.
- She discussed some of the definitions including adjacent ridge, major ridge, ridgeline, ridgeline scenic corridors, and significant view corridors.
- The definition in the ordinance is not limited to the green but also includes the 100-foot vertical and the 150-foot horizontal distances.
- She discussed the prohibitions within the RSC.

Chair Rodriguez provided the following comments:

- The Commission and staff have a responsibility to apply the code correctly.
- Approving this map means that this would not happen.
- This is a message to the Council that there is a problem.
- They need to apply resources to get the right map before them.

Commissioner Green provided the following comments:

- He likes the electronic map idea.
- They cannot discard the language in Section 17.060.
- The purpose is to preserve views.
- They need to keep the ordinance and adopt the new map.
- He supports the map. The ordinance language does not need to be amended.

Commissioner Swift provided the following comment:

- She supports using the map as it is.

Commissioner Gonzales-Parber provided the following comments:

- There is no conflict between Map No. 9 and what the ordinance says.
- As a design professional she would ask staff questions regarding the 100-foot, 150-foot rule, etc.
- This is a good place to start.

M/s, Newton/Green, motion that the Commission appoint Commissioner Newton as an ad hoc committee member to work with staff to come up with a georeferenced map that accurately reflects both the full concept of the ridgeline scenic corridor that would include the green ridgelines that are seen on the Visual Resources Map No.9, the bulb outs that were in the maps from the January packet, and reflects a common sense interpretation of the area that would be in the peneplane of the Town (resulting in large flat areas of the Town being in the corridor) because that would go against the purpose of the ordinance and come up with a proposed georeferenced map for staff to use as a

tool in working with the public and people who want to know whether or not their parcels are within the restricted zone.

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

The Commission took a 5-minute break at 11:30 p.m.

DISCUSSION

4. Discussion of Housing Element Update Work Program

Draft work program on the General Plan Housing Element update that plans for future housing development consistent with Regional Housing Needs Allocation (RHNA) mandates, for the 2023-31 planning period.

Planning Director Berto presented a staff report. He discussed planned Joint Meetings with the Town Council to discuss major milestones, introduction of the consultant, etc. The working group would consist of two to three Planning Commissioners and two members of the Affordable Housing Committee.

Chair Rodriguez opened the meeting to public comments.

Mr. Frank Egger made the following comments:

- The State mandates and Association of Bay Area Government (ABAG) numbers are driven by development interests and the existing infrastructure cannot support that much development.
- The unmet needs for housing are way overblown.
- The County of Marin and several local jurisdictions are challenging the numbers.
- Much of Fairfax is in the Wildland Urban Interface (WUI) Zone and has other constraints.

Chair Rodriguez closed the meeting to public comments.

Commissioner Green provided the following comments:

- The first step is to assign the tasks of the Planning Commission.

Commissioner Newton provided the following comments:

- She supported the appointment of Chair Rodriguez to the working group.
- She agreed with Mr. Egger regarding the burden on the Town's infrastructure.
- She wants to push more affordable housing at the very low income level.
- They would need to consider the cost to the Town before recommending a push back on the ABAG numbers.

Commissioner Fragoso provided the following comments:

- She had questions about how to proceed and the scope of work.
- She had questions about the ad hoc working committee.
- She suggested an ad hoc working group consisting of three Planning Commissioners.

Chair Rodriguez provided the following comments:

- The methodology for the Regional Housing Needs Assessment (RHNA) number for Fairfax is a concern.
- Public feedback will be critical and members of the public should be included in the process.
- She suggested the following Commissioners for the ad hoc working group: Newton, Swift and Fragoso.

Commissioner Swift provided the following comments:

- Some of this information is preliminary.

- They need more information about the timeline and the corresponding tasks.

Commission consensus was to appoint Newton, Swift, and Fragoso to the ad hoc working group.

5. Discussion of 2002 Zoning Ordinance provision requiring Design Review Board review of any commercial building exterior color change in downtown Fairfax

Planning Director Berto presented a staff report.

Commissioner Swift had a question about Option #2.

Chair Rodriguez opened the meeting to public comments.

Mr. Frank Egger made the following comments:

- Codification companies sometimes make mistakes and drop ordinances, make changes, etc.
- He was on the Council at the time and does not remember dropping commercial structures from the Design Review codes.

Chair Rodriguez closed the meeting to public comments.

Commissioner Green provided the following comments:

- He referred to Chapter 17.12 and stated most of the powers of the Commission are there but need to be clarified.
- He supported the language in the staff report except for the use of a dollar amount to determine the estimated value.
- Exterior color changes in the commercial zone should be subject to Design Review

Commissioner Fragoso provided the following comments:

- The Commission should take on this role.
- She does not care what the value is- color, signage, and lighting should be reviewed by the Commission.

Commissioner Swift provided the following comments:

- It seems clear that the thought had been to add into the Design Review and not take away from it.
- She supports Option #2.
- She would not support either the value or the 50% route at this point and would like staff to bring something back. Neither are appropriate for the commercial area.

Chair Rodriguez provided the following comments:

- The look and feel of the Historic Downtown District has economic and architectural significance.
- She supports the value determination vs. the 50% of remodel change.
- They should initiate the amendment to Section 17.020.030 and add a third paragraph to the "Applicability" Section.

Commissioner Gonzalez-Parber provided the following comments:

- It was an error to drop this.
- She supported recommendation #2 to amend the code language.

M/s, Green/Fragoso, motion to recommend that staff revise and return at the March 18th meeting Section 17.020.030 to add a third section "C" back into that section based on its analysis of what might be proper modern language in today's setting. In the interim they will continue to review color as they have been.

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

MINUTES

6. Minutes from the January 21, 2021 Planning Commission meeting

M/s, Fragoso/Green, motion to continue approval of the January 21, 2021 minutes to the next meeting.

AYES: Fragoso, Green, Swift, Chair Rodriguez

ABSTAIN: Gonzalez-Parber, Newton

Planning Director's Report

Planning Director Berto reported on the League of California Cities upcoming Virtual Conference scheduled for March 25th and 26th and then the following Wednesday and Thursday. The conference will cover what is going on in the State with an emphasis on the Housing Element. The Objective Development Design Standards (ODDS) process is underway. This will be an important part of the Housing Element Update.

Commissioner Comments and Requests

Commissioner Newton stated the members of the ad hoc committee for the Housing Element should meet before the next meeting.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 12:50 a.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary