

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

Call to Order/Roll Call:

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

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

Commissioners Absent: Norma Fragoso  
Philip Green

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

#### APPROVAL OF AGENDA

M/s, Newton/Swift, motion to approve the agenda as posted.

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

ABSENT: Fragoso, Green

#### 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 recommendation 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 off calendar.**

M/s, Swift/Newton, motion to continue this item off calendar.

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

ABSENT: Fragoso, Green

#### PUBLIC HEARING ITEMS

- 2. 48-52 Bolinas Road; Application # 21-01**  
**Continued consideration of a 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)**

Principal Planner Neal presented the staff report. She discussed the revisions to the design.

Chair Rodriguez opened the meeting to public comments.

Leyla Hilmi, architect, made the following comments:

- They focused on the upper section (the mansard shingle structure) which became unsafe.
- Looking at it head on it still looks flat.
- She pointed to the sections that are forward and the middle section that is set back and increases the articulation of the façade.
- They eliminated the awnings.
- They are not doing anything to the areas below.
- The revisions represent a more appropriate modulation of the façade.
- This has always been a simple structure.
- This is a repair project.

Chair Rodriguez asked the reason for the color choice given the colors in the downtown. Leyla Hilmi stated they did not think they had to match those colors and thought they should go with a warmer tone.

Chair Rodriguez referred to the three business names and asked if there was a master sign program. Leyla Hilmi stated it would be up to the individual occupants.

Norma Lydon made the following comments

- She inherited the building from her parents.
- They have prospective local tenants along with long-time tenants.

Richard Hamer made the following comments

- He used to be a tenant in this building and has construction knowledge.
- This is the antithesis of “preserving the funky Fairfax look”.
- The mansard roof was installed in 1982 and was repaired in 1997.
- Making this a flat expanse of whatever color they choose will take the character out of Bolinas Road.

Chair Rodriguez closed the meeting to public comments.

Commissioner Swift provided the following comment:

- She supports the changes to the color and the replacement of the mansard roof.

Commissioner Newton provided the following comment:

- She is not concerned about the removal of the mansard roof or the color.

Commissioner Gonzalez-Parber provided the following comments:

- She asked if the siding was Hardi plank. Leyla Himli stated they decided on the fiber cement siding since it mimics the wood paneling. It is spark resistant and fire safe.
- This is an improvement over what existed years ago.
- Initially she wanted exterior changes to include breaking up the horizontal plane of the facade but does not have any specific recommendations for how to do this.
- The project is addressing safety issues.
- The colors are fine.
- She supports the project.

Commissioner Newton provided the following comments:

- She suggested the following changes to the resolution: 1) On page 1, under the 4<sup>th</sup> “Whereas”, it should read: “The proposal complies with...”; 2) On page 2, the 5<sup>th</sup> “Whereas” should read “.. time of the lead agency’s...”; 3) On page 1, under the 6<sup>th</sup> “Whereas” there are two applicants and this change should also be reflected in #5 on page 2 and throughout; 4) On page 2, #5, the last sentence should say: “... subject to the Town’s promptly *notifying the applicants of any said claim, action, or proceeding*”.

M/s, Newton/Swift, motion to adopt Resolution No. 2021-01 with the following amendments: 1) On page 1, under the 4<sup>th</sup> “Whereas”, it should read: “The proposal complies with...”; 2) On page 2, the 5<sup>th</sup> “Whereas” should read “.. time of the lead agency’s...”; 3) On page 1, under the 6<sup>th</sup> “Whereas” there are two applicants and this change should also be reflected in #5 on page 2 and throughout; 4) On page 2, #5, the last sentence should say: “... subject to the Town’s promptly *notifying the applicants of any said claim, action, or proceeding*”.

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

ABSENT: Fragoso, Green

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

**3. 51 Belle Avenue; Application #20-17  
Request for a Conditional Use Permit, Minimum and Combined Side Yard Setback Variance, and Parking Variance to construct a new 330 square foot, single-car garage addition to a 1,017 square foot home; Assessor’s Parcel No. 002-214-11; RD 5.5-7 Residential Zone, High Density District; Peter Brandelius applicant/owner; CEQA categorically exempt per section 15031(e)(1).**

Planning Director Berto presented the staff report. Staff worked with the applicant last week and it was determined that this item should be continued to a date uncertain.

Chair Rodriguez asked if anyone in the audience would like to speak about this application. No hands were raised.

Planning Director Berto presented the staff report. He noted there was a discrepancy between the architectural plans and the survey.

Chair Rodriguez opened the meeting to public comments.

There were no comments.

Chair Rodriguez closed the meeting to public comments.

Commissioner Newton provided the following comments:

- She referred to the potential to turn an accessory structure into an Accessory Dwelling Unit (ADU) and asked how that might impact this project. Planning Director Berto stated the Commission would be looking at an application for a garage.

Commissioner Gonzalez-Parber provided the following comments:

- She asked if the neighbor to the left (west) has commented on the project. Planning Director Berto stated the project has been modified in response to the neighbor’s concern. He is not aware of the neighbor’s current position.
- She is concerned about access to the rear yard by emergency personnel.
- There are no openings or articulation on the west side of the garage. It presents and flat unbroken and blank wall towards the neighboring property.
- They are getting close to the neighbors on the west.

- She asked if they have explored putting the garage in the back.
- The lot is very narrow.

Commissioner Swift provided the following comment:

- She will make comments when the application comes back with revisions.

Chair Rodriguez provided the following comments:

- She asked about the standard width and depth for a single parking space (8' X 16", or 9' X 18')
- This is significantly longer and given the stairway she is confused about what is going on.

M/s, Newton/Swift, motion to continue this application to a date uncertain.

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

ABSENT: Fragoso, Green

#### **4 88 Toyon Road; Application #21-04**

**Request for a design modification of a previously approved Hill Area Residential Development and Design Review Permit to remodel/expand an existing 1,530 square-foot, 3-bedroom, 2-bathroom, 2-story single family residence into a 2,319 square-foot, 3-bedroom, 2 ½ bathroom, 2-story, single-family residence; Assessor's Parcel No. 003-081-39; Residential Single-family RS-6 Zone; Gregg Foster, owner; Kenneth Holder, Architect; CEQA categorically exempt per Section 15301(e)(1).**

Principal Planner Neal presented the staff report. She summarized the proposed changes to the project and the revisions to the resolution as indicated in the staff report (redline) plus the additional conditions: 1) On page 1, the 1<sup>st</sup> "Whereas" is missing an "e"; 2) On page 1, elimination of the reference to a Tree Permit and an Excavation Permit in the 3<sup>rd</sup> "Whereas"; 3) On page 8, the addition of Condition #37, "The second story roof deck privacy screen shall be 3 feet six inches in height and structurally extend out from the northeast corner of the building eight feet and the north window in bedroom #2 shall have a lower sill height of six feet above the floor level"; 4) On page 8, addition of Condition #38, "A revised Vegetative Management Plan must be obtained prior to issuance of the Building Permit to include the vegetative headlight screen at the front of the property and if the Ross Valley Fire Department is unable to approve the vegetation at the front then a fencing screen shall be placed in that same location."

Commissioner Swift had a question about Condition #38.

Commissioner Newton asked if there would be a change in the landscaping plan due to the retention of the swimming pool. Principal Planner Neal stated "yes". Commissioner Newton asked if the Floor Area Ratio (FAR) would be 0.14 or 0.16. Principal Planner Neal stated it would be the latter.

Commissioner Gonzalez-Parber asked about the location of the additional square footage. Principal Planner Neal stated they were extending out into the existing upper floor deck area on the second floor and shifting the lower floor living space out underneath the upper floor deck. The only space proposed not in the existing footprint of the house is a small area at the southeast corner where the existing deck jogs in towards the house – this area has been filled in with living space. Commissioner Gonzalez-Parber asked where the excavation was eliminated. Principal Planner Neal stated they were going to excavate under the house. Commissioner Gonzalez-Parber asked about the color change.

Chair Rodriguez opened the meeting to public comments.

Gregg Foster made the following comments:

- He has been working on the headlight screening with his neighbor whose house is 20 feet lower than the subject property's driveway.

- The proposal is for a wood screening which would eliminate the fence height issue.

Chair Rodriguez closed the meeting to public comments.

Commissioner Gonzalez-Parber provided the following comments:

- She appreciated the extra effort.
- The project looks a lot better.

Commissioner Newton provided the following comment:

- “Good fences make good neighbors”!

Commissioner Swift provided the following comments:

- She supports the modified project.

M/s, Swift/Newton, motion to adopt Resolution No. 2021-06 with the following amendments:

1) On page 1, the 1<sup>st</sup> “Whereas” is missing an “e”; 2) On page 1, elimination of the reference to a Tree Permit and an Excavation Permit in the 3<sup>rd</sup> “Whereas”; 3) On page 8, the addition of Condition #37, “The second story roof deck privacy screen shall be 3 feet six inches in height and structurally extend out from the northeast corner of the building eight feet and the north window in bedroom #2 shall have a lower sill height of six feet above the floor level”: 4) On page 8, addition of Condition #38, “A revised Vegetative Management Plan must be obtained prior to issuance of the Building Permit to include the vegetative headlight screen at the front of the property and if the Ross Valley Fire Department is unable to approve the vegetation at the front then a fencing screen shall be placed in that same location”: 5) Toyon Road throughout; 6) On page 2, 1<sup>st</sup> “Whereas”, elimination of the reference to the TPP plan dated 2/22/21: 7) On page 8, #35, the date should be 3/9/2020: 8) On page 4, (i) should read *Commissions*’.

AYES: All

ABSENT: Fragoso, Green

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

## **5. Housing Element Status Update**

Planning Director Berto presented a staff report. There is Joint Meeting with the Town Council scheduled for April 21<sup>st</sup>.

Chair Rodriguez asked about the Ad Hoc Subcommittee. Planning Director Berto stated he met with the subcommittee and had a discussion concentrating on the current Housing Element’s major Policies and Goals. There is another subcommittee meeting scheduled. Chair Rodriguez stated these meetings should be open to the public with a posted agenda.

Chair Rodriguez had a question about the rescheduling of the joint meeting. Commissioner Newton discussed her understanding of the reason for the Council’s decision

Chair Rodriguez opened the meeting to public comments.

Michael McIntosh made the following comments:

- The Commission should work on the Housing Element and bring it to the Council
- The State is now mandating what should be done.
- The same consultant should be hired to make a presentation to both the Planning Commission and Town Council at the same time.
- Everybody should be on the same page with the paid consultant.

Chair Rodriguez closed the meeting to public comments.

**6 Discussion/consideration of draft Ordinance for recommendation to the Town Council for adoption amending Town Code Chapter 17.020, Section 17.020.030 to include a Subsection (C) requiring a design review permit for exterior color changes or significant design changes to any buildings or other structures on commercially zoned properties.**

Principal Planner Neal presented a staff report.

Chair Rodriguez stated the Commissions' original concern was the preservation of the historic value of the downtown. She asked what zones this proposal applies to, if any of the Planned Development District (PDD) Zones have a commercial overlay, and about the definition of "significant" is in terms of alterations. Principal Planner Neal stated the original ordinance applied to all commercial zones and PDD Zones and she pointed them out. She stated new construction changes in the PDD are covered in another section.

Planning Director Berto stated this applies to the Highway Commercial (CH), Central Commercial (CC), Service Commercial (CS), and Limited Commercial (CL). Chair Rodriguez asked about the Commercial Recreation (CR) Zone.

Commissioner Newton stated they had the old version of the ordinance and it was difficult to look at this holistically. She suggested the first attachment to the proposed ordinance should be the existing language of the code with the current language and a "redline" to show the addition of Section (C). They should not look at this section in a vacuum.

Commissioner Swift stated they need to figure out the Commissions' intent. She noted there are five Commercial Zones (CH, CL, CR, CC, and CS) each of which has a Design Review Section. They are all basically the same. This issue started out with a concern about the downtown area. She asked about the Design Review language in each of the Commercial Zones as opposed to the Design Review Section language itself. She reiterated that they need to discuss intent.

Chair Rodriguez agreed with the comments made by Commissioner Swift.

Principal Planner Neal stated she was sure that this was originally intended to apply to all the Commercial Zones. The 1986 Design Review Board wanted to review the changes to Deer Park and School Street Plaza.

She is also of the opinion that the Design Review Board wanted this to apply to apartment buildings and multi structure residential developments (Multiple Residential- RM and PDD – condominium projects).

Chair Rodriguez opened the meeting to public comments.

There were no comments.

Chair Rodriguez closed the meeting to public comments.

Commissioner Swift provided the following comments:

- She asked if the RM Zone talks about Design Review. Principal Planner Neal stated "no" but it is included in the Senior Master Plan.
- The Commission started this discussion with the downtown corridor area in mind.

Commissioner Newton provided the following comments:

- She wondered if the intent was to require something that was formerly commercial but is now residential to go through this. Principal Planner Neal stated residences on commercially zoned properties should be subject to Design Review.
- She asked if they add the word “commercial” to the proposal.

Chair Rodriguez provided the following comment:

- They started with a review of the commercial properties downtown and now they are looking at all commercial properties in Town and maybe multi-family. Planning Director Berto stated staff believes this can be a fairly simple change. Principal Planner Neal agreed and stated she see this as being somewhat urgent.

Commissioner Swift provided the following comment:

- She had a question about the UR Zones. Principal Planner Neal stated Design Review Board approval is required in the Ridgeline Scenic Corridor.

Chair Rodriguez provided the following comments:

- She would like to continue this item and ask staff to come back the following: 1) Clarity on the goal; 2) A side by side comparison of the Design Review Ordinance and Section 17.020.030; 3) The triggers (i.e. \$2,500 of improvements, substantial change, etc.); 4) An analysis of the residential zoning.

Commissioner Newton provided the following comments:

- She would like to see in the proposed resolution something that reflects why this is coming forward and a reference made to the error made in 2002.
- She would like to restore it to what it was.

Commissioner Gonzalez-Parber provided the following comments:

- She likes staff’s idea of restoring the code to what it was before and adding the new language at the end regarding the 50% remodel criteria.
- The \$2,500 value is outdated.

Chair Rodriguez opened the meeting to public comments.

Frank Egger made the following comments:

- Somehow a simple amendment to the code to put all the commercial zones back into the Design Review code has gotten off track.
- This should be simple.
- An error was made in 2002 by the codification company.
- The purpose and intent is to cover the color schemes of commercial buildings.

Chair Rodriguez closed the meeting to public comments.

M/s, Swift/Newton, motion to continue this item to the next Planning Commission meeting for deliberation.

AYES: Gonzalez-Parber, Newton, Swift

NOES: Chair Rodriguez

ABSENT: Fragoso, Green

## **DISCUSSION**

### **7. Discussion of zoning ordinance regarding the boundaries of Ridgeline Scenic Corridors**

Planning Director Berto presented the staff report.

Commissioner Newton asked the Commission to imagine standing at the highest point of that Fairfax Ridge and dragging a piece of string 100 feet long and walking down that red line- everything in that area is caught up in that vertical distance.

Commissioner Swift stated if they go down that path they leave the code alone and the Visual Resources Map No. 9 alone. She never agreed to the approach of what that 100-foot vertical meant and that it would go beyond the 150-foot horizontal. It is more the point of what is within 35 feet of the ridgeline when looking at an application. They are really looking at what pokes above that 35-foot measurement.

Planning Director Berto stated the intent is to avoid structures that penetrate the plane of the ridge and to address the increased visual sensitivity of these properties.

Commissioner Newton stated the language in the ordinance talks about the 150-foot horizontal and 100-foot vertical, whichever is greater. This is a tool for staff to advise people whose properties fall within the distance of the ridge that they could potentially build and break that ridge plane.

Commissioner Gonzalez-Parber asked if this is going to be an overlay on the GIS map. Planning Director Berto stated "yes". Commissioner Gonzalez-Parber asked if they could add a cross-hatch in the location of the prohibited areas. Planning Director Berto stated the "no-build" zone will be made clear. Commissioner Gonzalez-Parber stated she loves the map and the colors.

Chair Rodriguez opened the meeting to public comments.

There were no comments.

Chair Rodriguez closed the meeting to public comments.

M/s, Gonzalez-Parber/Swift, motion to direct staff to complete the mapping of the 35-foot vertical and to combine it with the other two maps to come up with a cumulative Ridgeline Scenic Corridor Map for use by the Town.

AYES: Gonzalez-Parber, Newton, Swift

NOES: Chair Rodriguez

ABSENT: Fragoso, Green

Chair Rodriguez stated she voted "no" because she did not think this is the intent of the code and it does not provide adequate protection.

## **MINUTES**

### **8. Minutes from the January 21, 2021 and February 18, 2021 Planning Commission meeting**

M/s, Rodriguez/Newton, motion to approve the minutes from the February 18, 2021 meeting as corrected.

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

ABSENT: Fragoso, Green

M/s, Rodriguez/Newton, motion to continue the minutes from the January 21, 2021 meeting.

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

ABSENT: Fragoso, Green

## **Planning Director's Report**



Planning Director Berto reported the Climate Action Committee (CAC) gave a presentation to the Council at its last meeting and he asked the Commission if they would like to receive a similar presentation. Assistant Planner Kara Spencer is moving on and he wished her well in her future endeavors. Staff welcomes comments and questions from the Commission but would prefer that they be sent prior to the meeting date - the earlier the better.

Chair Rodriguez liked the idea of a CAC presentation. The other Commissioners agreed.

### **Commissioner Comments and Requests**

Chair Rodriguez asked if there was room in the 2021 League of California Cities Commissioners' Training session. Planning Director Berto stated "yes"- it is a virtual conference. Chair Rodriguez encouraged Commissioners to "attend".

Commissioner Swift asked about the status of the Annual Update to the Housing Element Report. Planning Director Berto stated the State has pushed the due date back to June. Commissioner Swift asked staff to send the spreadsheet.

Commissioner Gonzalez-Parber stated including paint samples on plans is very helpful.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:40 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary