

DRAFT 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



DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
VIA TELECONFERENCE DUE TO COVID-19  
THURSDAY, APRIL 15, 2021

Call to Order/Roll Call:

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

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

Commissioners Absent:                    Esther Gonzalez-Parber

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

**APPROVAL OF AGENDA**

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

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

ABSENT: Gonzalez-Parber

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

**CONSENT CALENDAR**

There were no Consent Calendar items.

**PRESENTATION**

**1. Presentation from the Fairfax Climate Action Committee (CAC)**

Dr. Jody Timms, Chair of the Climate Action Plan (CAP) Update Committee, gave a PowerPoint presentation that included the following: 1) Fairfax Climate Action Plan 2030; 2) 25% Reduction - Early; 3) Resolution 19-04, March, 2019; 3) Proposed 2030 Climate Action Plan; 4) Guiding Values; 5) Emission Trend, Forecast, and State Targets; 6) We beat out last goal- EARLY; 7) Strategy- Fairfax- California; 8) Thoughts on public comments to date; 9) Climate inaction/inadequate action is bankrupting our economy. She answered questions regarding voluntary compliance and incentives, creating an infrastructure conducive to achieving the goal, the disconnect in the County between CAP goals and objectives and local policies.

Mr. Walt Vernon, Chair of the CAC, stated the goal will not be entirely achieved through incentives and voluntary compliance. Aligning follow-through in terms of policy will be important. He discussed to goal of zero emissions by 2030.

Chair Rodriguez opened the meeting to public comments.

There were no comments.

Chair Rodriguez closed the meeting to public comments.

Commissioner Green stated this is a reasonable and implementable plan.

Chair Rodriguez discussed the upcoming Housing Element Update and housing goals and wanted to make sure the CAC was looped into the mailing list.

## **PUBLIC HEARING ITEMS**

### **2. 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 the staff report. She referred to the definition of “significant design element” cited in the staff report and suggested the alternative: “A significant design element alteration is anything that changes the shape, line, color, pattern, or texture of the exterior of a building including changes in any exterior building materials, roof line, window or door shape, size, or location, or changes to awnings.”

Commissioner Green liked the suggested language but would add “including, but not limited to...” prior to the list of elements.

Commissioner Swift asked where this language would be inserted in the ordinance. Principal Planner Neal stated at the end of Section 17.020.030 (C).

Chair Rodriguez referred to Section 17.020.040 Design Review Criteria (B) which states “only elements of design which have a significant relationship to exterior appearance of structures and facilities shall be considered, these elements may include height, arrangement on the site, texture, material, color, signs, landscaping”. Principal Planner Neal stated this language could be used.

Commissioner Fragoso stated she did not have a problem with Principal Planner Neal’s list and noted the Municipal Code is simpler and gets to the point. She asked if they wanted to wait a bit and include the structural elements of the Objective Design and Development Standards (ODDS). Chair Rodriguez stated she did not want to wait and could include that at a later date.

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 likes what they are doing.
- She liked the language with the residential zones added in.
- She wants to make it clear that there are commercial zones throughout the Town not just in the downtown area.
- They are not just focusing on the downtown.

Chair Rodriguez provided the following comments:

- There will now be mixed use properties that will be categorized under the Building Code as commercial.

- She referred to the Resolution, the third “Whereas”, and suggest deleting the words “to building new buildings and...”.

Commissioner Newton provided the following comments:

- She referred to the Resolution, the first “Whereas”, and stated the wording should be “multiple family developments”. The sixth “Whereas” should include the date of Ordinance 688.
- She referred to the Ordinance and stated the first, second, and fourth “Whereas” refers to the small downtown area and she asked if it is saying there is one downtown area and numerous commercial areas. Principal Planner Neal stated that was not her intent. She was trying to use language found in the General Plan and suggested adding an “s” to the word area. Commissioner Newton stated they could delete “downtown” and just reference the areas.
- She referred to Attachment B and stated it should include a timeline.

Commissioner Swift provided the following comments:

- They do not want people to assume that the resolution and ordinance applies only to the downtown corridor. She referred to the Resolution, the first “Whereas” and would like to add the following: “The Town of Fairfax...commercial district *primarily* along...”.
- She referred to the Ordinance, the third “Whereas”, and would like to delete the words “in the downtown commercial zones”, and add the words “including, but not limited to” before “Sir Francis Drake Boulevard...”.

Commissioner Green provided the following comments:

- He would to add the following to the end of the fifth “Whereas” in the Resolution: “The codification company apparently inadvertently removed certain alterations or additional language from the Applicability Section of the Design Review Ordinance”.
- He supported the other revisions.

M/s, Newton/Swift, motion to adopt Resolution No. 2021-04 with the following revisions: 1) The wording in the first “Whereas” should be “multiple family developments”, and should include the following: “The Town of Fairfax...commercial district *primarily* along...”; 2) In the third “Whereas” the following words should be deleted: “to building new buildings and”; 3) Add the following to the end of the fifth “Whereas”; “The codification company apparently inadvertently removed certain alterations or additional language from the Applicability Section of the Design Review Ordinance”; 4) The sixth “Whereas” should include the date (2002) of Ordinance 688; and the following revisions to the Ordinance: 1) In the third “Whereas”, delete the words “in the downtown commercial zones”, and add the words “including, but not limited to” before Sir Francis Drake Boulevard; 2) Add the following sentence to the Ordinance: “A significant design element includes, but is not limited to, height, arrangement on the site, texture, material, color, signs, landscaping”; a chronology should be added to Attachment B.

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

ABSENT: Gonzalez-Parber

### **3. 45 San Gabriel Drive; Application #21-05**

**Request for a Conditional Use Permit and a Combined Side-setback Variance to construct a 181 square foot addition/remodel of the second story of an existing 3-bedroom, 2-bathroom residence to provide a study and a third bathroom; Assessor’s Parcel No. 001-261-44; Residential Single Family RS 7.5 Zone; Tristan Warren, Architect/applicant; Kevin and Susan Daniel, owners; CEQA categorically exempt per section 15031(e)(1).**

Principal Planner Neal presented the staff report. She noted Mr. Tristen Warren is the architect for this project and not Ms. Laura Kehrlein.

Chair Rodriguez asked if it was the architect’s idea to do the shadow study. Principal Planner Neal stated the application form requires a shade study but it is often waived by staff.

Chair Rodriguez opened the meeting to public comments.

Mr. Tristen Warren, architect, made the following comments:

- This is a straightforward project- a second floor addition that includes a third bathroom, an office, and expansion of one of the bedrooms.
- They are working with the existing frame of the house (exterior walls).
- The building mass will stay within the existing footprint and height envelope.
- He displayed the design style which would minimize the impact to the rest of the neighborhood.
- They are maintaining the ridge as is and shifting the pitch of the back roof up to gain the one-story at the front and two-story at the back style.
- They raised the eve line only high enough to allow the fenestration for the window- the same head height as the existing windows for consistency (12" between the eve line and the top of the windows).
- They are trying to maximize the usable area in the addition.
- This is not a big house.
- This is an existing non-conforming home.
- They are encroaching into the combined setbacks by a combine four foot three inches out of twenty feet. The building is not in the minimum required five foot setback on either side.
- The shadow study depicts how the structure exists and is proposed and indicates little change or impact from one to the other.
- They did a shadow study on the winter solstice depicting a conforming structure vs. the proposal and it showed no impact.
- The addition will not significantly impact the adjacent parcels.
- He noted the neighbors' support.

Mr. Kevin Daniel, owner, made the following comments:

- A master bathroom is desirable.
- There are two bathrooms which are quite small.
- This does not seem like a big project and would make the home more enjoyable.

Commissioner Fragoso asked if they were maintaining the same side yard setback. Mr. Warren stated "yes". Nothing they are doing will exceed the existing footprint of the building.

Chair Rodriguez referred to the letters of support and asked what documents were provided. Mr. Daniel stated they provided profiles of the house, how the existing structure looks now vs. the proposed structure, and the floor plan.

Chair Rodriguez stated the shadow study was helpful and asked if fewer drawings could have been submitted. Mr. Warren stated they followed the criteria of the Town but showing the winter solstice would have been sufficient.

Chair Rodriguez closed the meeting to public comments.

Commissioner Fragoso provided the following comments:

- Shadow studies are usually very helpful but this was a waste of paper and money. It could have been less voluminous and summarize the impacts in one or two pages.
- She has gone through the plans and does not really understand what has changed. A good site plan would have been helpful.
- She does not have a problem with the nature of the addition.
- She referred to the peak of the roof over the garage and asked if this is a usable space. Mr. Daniel stated it was for storage.

Commissioner Green provided the following comments:

- The project is great. It is brilliant.
- They are improving a house by making the same footprint more usable.
- The plans are great.
- Shadow studies are needed when solar is required and there might be an impact on the neighbors.
- He was in favor of more electronic packets.
- He could approve the project.

Commissioner Swift provided the following comments:

- She supports the project.
- She referred to the Resolution and suggested the following changes: On page 6 it should read Chair, *Michele* Rodriguez.

Chair Rodriguez provided the following comments:

- The architect did a great job with respect to placement and respect for the neighborhood.
- She appreciated the shadow study and agreed there could be a summary.

M/s, Green/Fragoso, motion to adopt Resolution No. 2021-07 with the following correction: On page 6 it should read Chair, *Michele* Rodriguez.

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

ABSENT: Gonzalez-Parber

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

#### **4. Discussion of zoning map of the boundaries of the Ridgeline Scenic Corridor**

Planning Director Berto presented a staff report.

Commissioner Swift asked if a parcel that is down sixty feet from the 150 foot horizontal would be captured in the thirty five foot area. Planning Director Berto stated it would not be captured in the 35-foot but it was within the 150 foot horizontal. The map overlays all of those elements. Commissioner Swift stated this approach would not only capture parcels that would be 35-feet down from the ridgeline but also anything that has the potential to cross that 35-foot line.

Commissioner Green referred to the “thumbprint” looking areas that are straight vertical lines and asked what they were. Planning Director Berto stated they are visual resource areas.

Commissioner Fragoso asked what the lines/areas (purple, red, blue, green) at the top of the Glen Drive Ridge represent. Planning Director Berto stated they represent the three RSC types, but focus is on the 35-foot vertical which is the aquamarine area.

Chair Rodriguez referred to Code Section 17.060.030 and the definition (100-foot vertical on the major ridge and 150-foot on a horizontal ridge) and asked if staff is proposing to return with a modification amending this definition to be 35 feet. Planning Director Berto stated not at this time- it would be added to a future work program. Chair Rodriguez questioned how staff would interpret this section. Planning Director Berto stated the 35 foot application provides the most reasonable vertical relationship to the actual defined ridgelines. It is a choice between using the 35-foot measurement or dropping the 100-foot vertical measurement entirely since there is no consensus.

Commissioner Swift reiterated her concern about using the 35-foot measurement and the impact of a potential structure when looking up at the RSC’s from different areas in Town. The staff report talks about “broaching the ridgeline”. Planning Director Berto stated this is a cumulative approach and staff is trying to add protections.

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:

- The attempt is to provide staff with some practical tools to assist them in reviewing proposals and provide information about what is or is not in what the Ordinance refers to as the “protected areas”.
- These tools should be as comprehensive as possible.
- The tools should include the 150-foot horizontal and try to come up with a practical boundary for the vertical.
- She agreed with the concerns about the language in the ordinance.
- They need to amend the Ordinance holistically.
- She is in favor of moving forward.

Chair Rodriguez provided the following comments:

- The way she is interpreting all of this is that there was a 1974 Ridgeline map that was created as an indicator of where the ridgelines existed. The code is a compliment to that map and is what staff would use as applicants come in to determine if a proposal is in the RSC while applying the subsections criteria.
- She sees this interpretation as triggering an amendment to the code to decrease it from 100 to 35 feet resulting in fewer parcels being included.
- She sees the practical concerns of the measurements including a lot of places in Town. This can be corrected by language such as “when it hits the valley floor it is not applicable”.
- She does not see a problem with all of those parcels being included.
- She values looking more closely in the cuts, the fills, the drainage, and at the biology and hydrology.
- She is getting lost in the detail of the mapping vs. the value of the ridges.
- She is not in support

Commissioner Newton provided the following comments:

- They could cut the red line off a little sooner so the second lighter color is not included in the Ridgeline Ordinance.
- The 35-foot approach is somewhat random but practical.

Commissioner Swift provided the following comments:

- She saw the 100-foot vertical coming off that 150-foot horizontal.
- She has a problem with the idea that the 100-foot vertical is going to run further out than 150 feet. That is not the definition in the code.
- They are looking at what is impacting significant view corridors.
- She is concerned with just the 35 feet. She asked about a comparison between these parcels and those that are on the list using the traditional method. Planning Director Berto stated the traditional list is obsolete. Digitizing the map and using it against a Marin Map parcel map added over 100 parcels. The 100-foot vertical would add about 2,000 parcels – the entire Town. The 35-foot vertical would add parcels and provide additional protection to what has been used.

Commissioner Green provided the following comments:

- He thanked Commissioner Newton for her work on this and stated she came up with a good solution for now.
- He supported it and wants to see how it works.



- They will need to revisit this issue.
- The 100-foot vertical could include most of the Town and that is a problem.
- The 150-foot horizontal is the limiting factor.
- He supported recommending the last map proposed on an interim basis

Commissioner Fragoso provided the following comments:

- She was concerned during the last review that staff was not incorporated all three of the views and measurements.
- She has always thought that they needed a practical fix to the overreach of the original ordinance.
- This is a tool that allows staff to determine the location of a parcel on the ridge.
- This could be a very good solution.
- The Ordinance could be rewritten when the General Plan is updated.

Commissioner Newton provided the following comment:

- The definition says they should stop at either the 150-foot horizontal distance or the 100-foot vertical, whichever is a greater area.

Commissioner Swift provided the following comments:

- She sees the definition differently. She looks at the triangle piece of it.
- She would like to go forward with this mapping.
- She would like to look at this a year from now.

Commissioner Fragoso provided the following comment:

- This should come back after the Housing Element Update is finished and perhaps after a couple applications have come through.

The Commission took a 5-minute break at 9:45 p.m.

## **5. Report out from Housing Element Subcommittee**

Planning Director Berto presented a staff report.

Subcommittee member Swift stated the BBK PowerPoint presentation that was given at the last Council meeting should be on the Town Website. It would be good to go over the Association of Bay Area Government (ABAG) Regional Housing Needs Allocation (RHNA) process at the joint meeting with the Council because it is not only about providing low-income housing. It was helpful to go through the existing Housing Element since it shows what has and has not changed, assumptions that were made, etc.

Commissioner Fragoso stated she would like to take a close look at the Goals since some were redundant and could be combined into a cohesive strategy. It also contained some unpractical "fluff". The Goals should be more reflective of actual policies and a vision of how they want to do things.

Commissioner Newton referred to the table in the staff report regarding Current and Proposed RHNA numbers and stated they need to look at this without any preconceived ideas. Her goal is to see workers in Fairfax be able to live in Fairfax. She wants to focus on "low", "very low", and "extremely low" categories.

Commissioner Fragoso agreed with Commissioner Newton. She asked if the "above moderate" category was market rate. Planning Director Berto stated "yes".

Chair Rodriguez referred to the subcommittee's comments and stated she did not see any safety comments (WUI, flood, evacuation, etc.), the concept of the green infrastructure, or connectivity to public transit/mobility. She referred to Goal H-5 and noted the ban on natural gas should be called an all-electric ordinance. The Racial Equity and Social Justice (RESJ) Committee should also be included in the process.

Commissioner Green stated the affordable housing process cannot favor people who already live in Town but he agreed with the desire for workers to live locally. Work/force housing should be prioritized. The RHNA numbers are very impractical.

## **MINUTES**

### **6. Minutes from the January 21, 2021 and March 18, 2021 Planning Commission meeting**

M/s, Swift/Green, motion to approve the minutes from the January 21, 2021 meeting as corrected.

AYES: Fragoso, Green, Swift, Chair Gonzalez

ABSENT: Gonzalez-Parber

ABSTAIN: Newton

M/s, Swift/Newton, motion to continue the minutes from the March 18, 2021 meeting.

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

ABSENT: Gonzalez-Parber

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

Planning Director Berto reported he is planning to bring a report on the Objective Design and Development Standards (ODDS) to the Commission at a Special Meeting on May 27<sup>th</sup>. They have held two subcommittee meetings and progress was made. The recent League of California Cities Conference included some very good information and presentations. The RHNA seminar was very useful.

### **Commissioner Comments and Requests**

Commissioner Swift asked if the Annual Housing Element Report has been submitted. Planning Director Berto stated "yes". Commissioner Swift asked for a copy.

Commissioner Swift asked for clarification on whether or not a Commissioner who missed a meeting could vote on those minutes or should abstain.

Commissioner Swift stated the Commission was supposed to review the application for School Street Plaza a year after its submittal. She would like a report from staff on the status. Planning Director Berto stated permits were pulled and work is being done. Much of the "bootlegged" work has been legalized.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:36 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary