

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: Fragoso, 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 27th. 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