

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

Call to Order/Roll Call:

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

Commissioners Present:                    Norma Fragoso  
   Esther Gonzalez-Parber  
   Philip Green  
   Robert Jansen  
   Brett Kelly  
   Mimi Newton (Chair)  
   Cindy Swift

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

**APPROVAL OF AGENDA**

M/s, Fragoso/Gonzalez-Parber, motion to approve the agenda as posted.  
AYES: Fragoso, Gonzalez-Parber, Green, Jansen, Kelly, Swift, Chair Newton

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Ms. Renu Mahatra asked if it was possible to be on camera when asking a question. Planning Director Berto stated not unless the person is an applicant.

**CONSENT CALENDAR**

There were no Consent Calendar Items.

**PUBLIC HEARINGS**

1. **104 Bothin Road; Application #21-15**  
**Request for a Conditional Use Permit for the remodel/expansion of a 1,619 s.f., 2-story, 3-bedroom, 2-bathroom, single family residence in to a 1,881 s.f. 2-story, 3-bedroom, 2-bathroom single family residence with sewing/storage rooms. Assessor's Parcel No. 001-082-70; Residential Single Family RS 6 Zone; Gary Millar, applicant/architect; Dan and Sandy Howard, owners; CEQA categorically exempt per section 15301(e).**

Commissioner Green recused himself from this item.

Principal Planner Neal presented the staff report.

Chair Newton referred to page 2 of the staff report and noted two corrections and had a question about the applicability of the code sections cited in the second paragraph. She referred to page 2 of the Resolution, the first "Whereas" #3(a), and had a question about the emergency access routes. Principal Planner Neal stated that is a standard condition that is determined by the Public Works Director. Chair Newton had a question about the Noise Ordinance, the language at the top of page

6 of the Resolution, and noted Condition #20 was vague. Principal Planner Neal stated the Commission could schedule a meeting to discuss the standard resolution language- it could be updated.

Chair Newton opened the Public Hearing.

Mr. Gary Millar, architect, made the following comments:

- They have met all the requirements of the Town.
- They met with the neighbors and discussed the plans and viewed the story poles. Most of them signed a letter of support.
- The neighbor's concerns were about the process (noise, construction schedule) and not the design.
- The contractor will be readily available to the neighbors.
- They submitted a Lighting Plan with low-level, dark sky compliant lighting. There will be no light spillage.

Commissioner Kelly asked about the three inch square steel tube posts on the addition. Mr. Millar stated those were for temporary shades over the deck construction area.

Chair Newton closed the Public Hearing.

Commissioner Swift provided the following comments:

- She supported the project.
- She referred to the resolution and suggested the following changes; 1) On page 2, Condition #1 should refer to Plan pages 2 and 2.1; 2) On page 3, Condition #10, the reference to the Design Review Board should be deleted.
- All Dark Sky requirements should be included in the conditions.

Commissioner Gonzalez-Parber provided the following comments:

- She supported the project.
- There is little impact to the exterior.

Chair Newton provided the following comments:

- She referred to the resolution and suggested the following changes: 1) On page 1 there should be a reference to Town Code Section 17.032.060 under the Conditional Use Permit Findings; 2) On page 2, Condition #2 should be deleted and the reference to the Lighting Plan should be included in Condition #1.

M/s, Swift/Fragoso, motion to adopt Resolution No. 2021-16 with the following changes: 1) On page 1 there should be a reference to Town Code Section 17.032.060 under the Conditional Use Permit Findings; 2) On page 2, Condition #2 should be deleted and the reference to the Lighting Plan should be included in Condition #1; 3) On page 2, Condition #1 should refer to Plan pages 2 and 2.1; 4) On page 3, Condition #10, the reference to the Design Review Board should be deleted.

AYES: Fragoso, Gonzalez-Parber, Jansen, Kelly, Swift, Chair Newton

RECUSED: Green

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

Commissioner Green returned to the meeting.

**2. 403 Cascade Drive; Application #21-11  
Continued consideration of a request for a Use Permit, Creek Setback Variance, and Design Review Permit for a new 2 story, 1,745 s.f., 2-bedroom, 2- bathroom, single-family residence with an attached 467 square foot, two-car garage. The residence/garage will replace an existing residence on the site. APN 003-044-10; Residential Single Family RS-6 Zone; Daniel Thompson, owner/applicant; CEQA categorically exempt per Section 15301(e)(1). (Continued from the July 15, 2021 meeting)**

Planning Director Berto presented the staff report.

Commissioner Swift asked about Condition #24 in the resolution and the reference to a “deferred permit”. Principal Planner Neal stated the permit will come in with the Building Permit. This is something the applicant needs to work out with the Ross Valley Fire Department.

Commissioner Jansen asked about the Creek Setback Variance. Planning Director Berto stated it is referred to on page 2 of the resolution. It should also be added to the resolution title.

Chair Newton asked what year the structure was constructed. Planning Director Berto stated he did not know. Chair Newton referred to page 4 of the staff report and asked what code section was used to make the conclusions about the slope, dimensions of the lot etc. Planning Director Berto stated it is Section 17.080.50 and standards for the RS-6 Zone. Chair Newton asked about the location of the proposed structure vs. the existing structure. Planning Director Berto stated the proposed structure is further back (maybe a foot) from the creek. Chair Newton had a question about the duties of the Building Permit Plan Checker

Chair Newton opened the Public Hearing.

Mr. Daniel Thompson, applicant, made the following comment:

- The home was constructed in the 1930's- his family took possession in 1956.
- This is a teardown, with no foundation and full of dry rot.
- This will be a simple, open home.

Commissioner Green asked about the reason for the building. Mr. Thompson stated he plans to live in the home.

Chair Newton closed the Public Hearing.

Chair Newton provided the following comments:

- She is in favor of the project.
- She referred to the resolution and suggested the following changes: 1) On page 1, the title should include a reference to the Creek Setback Variance and the application number; 2) On page 2, Code Section 17.032.060 should come after “Use Permit”; 3) On page 2, the Code Section for the Variance Findings should be included; 4) On page 2, under “Variance”, the third paragraph should say, “Moving the location...*close* to where the current residence...for over *eight* decades...where it *would be twice the average depth of the bank...*”; 5) On page 7, it should read, “The approval... *Creek Setback Variance...*”

Commissioner Swift provided the following comments:

- She referred to the resolution and suggested the following changes: 1) On page 2 it should read “Creek Setback Variance”; 2) On page 5, Condition #17 should read: “Prior to the issuance of the Building Permit, the applicant or his assignee shall provide a Lighting Plan that shows all lighting to be Dark Sky compliant to include compliance with color, temperature to minimize blue rich lighting and shall be the minimum necessary for safety”.

- Commissioner Green provided the following comment:
- Commissioner Swift's condition regarding lighting should be included in all resolutions.

Commissioner Gonzalez-Parber provided the following comments:

- She asked if a landscaping and drainage plan was submitted. Planning Director Berto stated "yes" as part of the last meeting's submittals.
- She supports the project.

M/s, Jansen/Green, motion to adopt Resolution No. 2021-12 with the following changes: 1) On page 1, the title should include a reference to the Creek Setback Variance and the application number; 2) On page 2, Code Section 17.032.060 should come after "Use Permit"; 3) On page 2, the Code Section for the Variance Findings should be included; 4) On page 2, under "Variance", the third paragraph should say, "Moving the location...*close* to where the current residence...for over *eight* decades...where it *would be twice the average depth of the bank...*"; 5) On page 7, it should read, "The approval... *Creek Setback Variance...*"; 6) On page 2 it should read "Creek Setback Variance"; 7) On page 5, Condition #17 should read: "Prior to the issuance of the Building Permit, the applicant or his assignee shall provide a Lighting Plan that shows all lighting to be Dark Sky compliant to include compliance with color, temperature to minimize blue rich lighting and shall be the minimum necessary for safety".

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

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

The Commission took a 5-minute break at 8:15 p.m.

### **3. 79 Wood Lane; Application #21-17**

**Request for a Hill Area Residential Development, Excavation, Design Review Permit and Tree Removal Permit and Combined Side-yard Setback and Retaining Wall Height Variance for a 1,936 square-foot , 2-story, 3-bedroom 2 ½ bathroom, single family residence, attached 704 square-foot accessory dwelling unit and a detached 450 square-foot garage; Assessor's Parcel No. 002-062-03; Residential Single Family RS-6 Zone; Laura Kehrlein, applicant/architect; Coby Friedman, owner; CEQA categorically exempt per section 15303(a).**

Principal Planner Neal presented the staff report. She referred to page 1 of the staff report and stated there is a correction- the proposal is for a 2,639 square foot, two story structure (includes the house and the accessory dwelling unit).

Commissioner Jansen asked if the height, regardless of excavation or backfill, was less than 28 feet. Principal Planner Neal stated "yes".

Commissioner Green stated reducing the amount of excavation and lowering the nine foot story to eight feet would reduce the tall visual impression. He noted the height complies with the code. Principal Planner Neal noted the Commission has the ability to ask them to lower the height if it feels it will negatively impact the neighboring homes.

Commissioner Kelly asked if the addition of the fill on the lower portion of the site would require retention on both sides of the site. Principle Planner Neal stated the plans show a retaining wall on the west side only.

Commissioner Fragoso stated she is having trouble figuring out why they need so much fill. Principle Planner Neal stated she should ask the applicant. Commissioner Fragoso asked about the Drainage Plan and the use of fill.

Commissioner Kelly asked if the first floor is raised up three and one half feet. Principal Planner Neal stated "yes".

Commissioner Swift stated the Lighting Plan dated July 1, 2021 shows the second floor with a fourth bedroom and a family room. Principal Planner Neal stated the original plan was for an ADU located over the garage. They might have inadvertently included these plans.

Commissioner Swift stated the project engineer documents indicate that the applicants accept the risk of future maintenance and repairs with respect to the foundation type. She asked if this only applies to the owner's parcel and building. Principal Planner Neal stated she would need to ask the applicants.

Commissioner Gonzalez-Parber asked if the raised foundation was being driven by the basement height or the projected run-off. Principal Planner Neal stated she should ask the applicant. A basement that will not be inhabited does not need that high of a ceiling.

Chair Newton referred to the staff report, the top of page 6, and stated the Town Code Section should be 17.080.060(a). She had a question about Section 17.008.020, "Definitions". She was concerned the story poles were not as high as the actual proposal. Principal Planner Neal stated the corner poles are relatively accurate but she was not sure about the center poles. Chair Newton referred to the top of page 9 of the staff report and stated the Town Code Section should be 17.080.070(B)(2).

Commissioner Gonzalez-Parber asked staff to identify which structures on adjacent properties were one-story ADUs. Principal Planner Neal pointed them out.

Chair Newton opened the Public Hearing.

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

- The existing hillside house no longer works for the owner.
- The 749 square foot cottage was built in 1912. It is in poor condition and will be demolished.
- The wall behind the existing house is the elevation of the finished floor of the new proposed house. The finished floor elevation is determined by the existing rear patio level.
- The lot is narrow and has less buildable area than the neighboring lots. A two-story design is necessary.
- The lot is flat with a slope of less than 10% in the front then slopes steeply at the rear. The grade elevation change is about four feet.
- The proposed construction will occur at the front of the lot.
- The proposal is for a new 1,939 square foot single family residence with a 704 square foot accessory dwelling unit approximately 30 feet from the street curb.
- New off-street parking will be provided with a new driveway on the west side of the residence. A new 450 square foot detached garage will be built in the same location as the existing cottage.
- The rear portion of the lot will remain undeveloped.
- The new landscaping will be simple, cottage-style plantings with low water requirements.
- The main floor will have nine foot ceilings and the upper floor will have eight foot ceilings.
- The roof will be a shallow 4/12 pitch.
- The fill is needed to make the driveway work- to create a gentle slope.
- She discussed the project materials.

Mr. Coby Friedman, owner, made the following comment:

- He read a letter.
- This is a tear-down.
- The proposal is for a modest master bedroom, kitchen, and living area on the ground floor, and two, small bedrooms on the second floor.
- The landscape plan includes backfilling and grading the side yards to accommodate access through the back door.
- The back half of the second story is a one-bedroom, one bath ADU.
- The design is traditional and in keeping with the Fairfax spirit.
- Some neighbors think the house is too large- he disagrees.
- They set the house back 26 feet from the property line.
- They are not exporting fill and may have to import fill to build the approach to the back of the house.
- The height of the new retaining wall will be at the same elevation.
- They are within the height limit but could convert the hip roof into a mansard roof lowering it by one foot.
- The height of the basement is not relevant to the height of the building.
- Drainage will not be an issue.

Commissioner Jansen asked about the materials for the retaining walls- wood or concrete. Mr. Friedman stated they would be concrete. Ms. Kehrlein stated the plans indicate I-beam with wood lagging. This would be the minimum. Commissioner Jansen asked about the necessity of these walls wrapping around the side of the lot. Mr. Friedman stated they need to do that.

Commissioner Green asked if the proposal is for a rebar concrete slab foundation. Mr. Friedman stated "yes". Ms. Kehrlein stated it would be an engineered slab. Drilled piers would not be a workable foundation system.

Commissioner Gonzalez-Parber asked if this foundation system would be for the house and the garage. Mr. Friedman stated "yes". Commissioner Gonzalez-Parber asked if the utilities would be run under the floor. Mr. Friedman stated "yes".

Commissioner Kelly noted Sheet A4 shows spread footings. Ms. Kehrlein stated those are the preliminary generic drawings. Commissioner Kelly asked if the shorter retaining wall would be demolished. Mr. Friedman stated "yes". Commissioner Kelly asked if the back yard would be reconfigured. Mr. Friedman stated the back yard would abut up against the house.

Chair Newton asked about the Americans with Disabilities Act (ADA) accessibility from the rear of the house. Ms. Kehrlein referred to the Floor Plan and noted the level area would be through the back door, the garage, and the patio area. The design goal is for a slope of 8% or less, with 5% considered a "sloped walkway". Mr. Friedman stated he could add a ramp is necessary.

Ms. Heather Ford, Wood Lane, made the following comments:

- She lives next door to the east of the proposal.
- She strongly opposes the proposal.
- There are environmental and safety concerns.
- There will be a massive 22 foot tall and 47 foot long wall looming over her property- over 1,000 square feet. It will be five feet from the property line.
- All three of her bedrooms are on that side of the house. The wall would block their views of the trees, etc.
- The wall would impact her privacy since the window would look into her back yard, bedrooms, and pool.

- The proposal would reduce the resale value of her home and block her sunlight and solar panels in the winter.
- She discussed to the Shade Study.
- She asked the Commission to consider a new design.

Ms. Renu Malhotra, Wood Lane, made the following comments:

- There are challenges on Wood Lane- light and water.
- These are small lots in a valley.
- Nobody is discussing the rising level of the water table in this valley.
- She asked for a continuance so she could consult with a hydrologist.
- She is concerned about the creation of more water on her side because the project will reduce the ability of the water table to dissipate.
- She was concerned about the plans for the hillside- the end of retaining wall and the end of the swale.
- She displayed a photograph.

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

- He has seen the creek overflow just below the stables and run curb to curb down Wood Lane.
- He recommended two conditions for the Junior Accessory Dwelling Unit (JADU)- it shall not be used as a short-term rental, and it shall be a rent controlled unit.
- The combined side yard setback requirement is to protect the small-town character of Fairfax.
- The height and bulk of the project is setting the stage for the transformation of Wood Lane.
- He supports the staff recommendation for a continuance.

Mr. Rick Ford, Wood Lane, made the following comments:

- He understands the geology and hydrology of the area.
- He agreed with the comments made by Ms. Malhotra about the groundwater.
- The basement and foundation of the proposal would create a dam.
- He will lose sunlight due to the height of the proposal and lose all views to the west.

Mr. Friedman made the following comments:

- The lot is only 50 feet wide.
- Ms. Malhotra's house sits right on the property line with no setback.
- They pushed the house to the left.
- They "split the baby" with respect to the location of the proposal.

Chair Newton closed the Public Hearing.

Commissioner Jansen provided the following comments:

- This is a small lot with a relatively large building on it that would have an impact to the neighbors.
- He agreed with the staff recommendation for a continuance.

Commissioner Gonzalez-Parber provided the following comments:

- This is a very constrained site.
- The project is being built in a "community" and it needs to be balanced with the environment (Mother Nature) and the neighbors.
- She agreed with the staff- this is a box, with a roof, an attic and crawlspace. It is too tall and the building does not need to be raised 3 ½ feet.
- A better solution to the access issue would be to drop the garage.
- There should be a way to break up the box with some type of articulation,
- The ADU should be a stand-alone on the ground level.
- The massing is creating very tall walls that impact the neighbors.

- They could drop the finished floor levels three to four feet.
- They could drop the back and make the retaining wall a bit higher.
- Creating more height by backfilling is a mistake.
- This is a great floor plan and she supports the ADU.
- She cannot support the project as proposed.

Commissioner Swift provided the following comments:

- She cannot support the proposal and cannot make the findings for the Hillside Residential Development Permit
- She is concerned about the shade studies and the amount of impact to the neighbors and the solar panels.
- The application should be continued.

Commissioner Green provided the following comments:

- The Variance Findings cannot be made.
- There would be some adverse, detrimental effects to the neighbors.
- The proposal needs more articulation, in particular the tall wall.
- The height could be reduced in numerous ways.
- He suggested the applicant and architect meet with the neighbors.
- He supported a continuance.

Commissioner Kelly provided the following comments:

- He was encouraged by the design that pushes the garage all the way to the back of the lower portion of the site.
- He was disappointed that some of that front yard was filled with parking.
- He is concerned about drainage of the property.
- He asked them to revisit the shade study and to include consideration of the shade thrown by the trees on the back hillside.
- The colonial red color of the roof is out of context with the neighborhood.
- The red and white contrast makes the building stand out.
- All the floor heights should be lowered by three feet or so.
- He supported the staff recommendation for a continuance.

Commissioner Frago provided the following comments:

- Given all the concerns expressed by the neighbors and the Commissioners she is unable to approve the project tonight. There are too many questions.
- She did not agree with the recommendation to lower the ceiling heights. They could lower the building, the roofline, or the basement.
- She agreed with a continuance.

Chair Newton provided the following comments:

- She agreed with the comments made.
- There needs to be a balance between the applicant's and the neighbor's desires and a win-win for the hood.
- She urged the applicant to meet with the neighbors.
- She is focused on the light issues, the drainage issues, and the idea that the design of the structure is massive and could potentially be scaled down.
- She asked staff to address, at the future meeting for this application, the conditions that could be imposed on the JADU.

Chair Newton asked Mr. Friedman if he would agree to a continuance. Mr. Friedman asked about the options. Principal Planner Neal stated the Commission could deny the application and the



applicant could appeal to the Town Council. Mr. Friedman asked when the application would be rescheduled. Principal Planner Neal stated that would depend on how quickly they can submit revised plans. Ms. Kehrlein stated they could resubmit quickly Mr. Friedman agreed to a continuation.

M/s, Fragoso/Green, motion to continue this application to a date uncertain to allow the applicant to address the concerns of staff, the Commission, and the neighbor.

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

The Commission took a 5-minute break at 10:32 p.m.

#### **4. 24 Shadow Creek Court; Application #21-18**

**Request for an exception to the 3,500 s.f., maximum house size limitation, Design Review and Excavation Permits to expand an existing 4,005 s.f., 6-bedroom, 3.5 bath, single family residence into a 4,153 s.f. residence with an expanded family room. The project includes construction of a swimming pool, spa pool accessory structures and an accessory dwelling unit; Assessor's Parcel No. 174-210-03; Planned Development PDD Zone; Chase Hallenberg, owner; Charles Theobald, applicant/architect; CEQA categorically exempt per section 15301(e), 15303(f).**

Principal Planner Neal presented the staff report. She noted the accessory dwelling unit complies with the Town's Accessory Dwelling Unit Ordinance it is not part of tonight's review. The applicant has agreed to relocate the shower to meet the 10' rear setback.

Commissioner Swift asked if the reference in the staff report to the RS-6 Zone should be the RS 7.5 Zone. Principal Planner Neal stated "yes".

Commissioner Jansen asked about the recommendation from the Ross Valley Fire Department regarding the use of wood shingles. Principal Planner Neal stated she did not receive any comments. It will get reviewed again by the RVFD during the Building Permit stage.

Commissioner Kelly asked if the sanitary district would have allowed a greywater system instead of a roof over that shower. Principal Planner Neal stated she did not know. Commissioner Kelly encouraged the applicant to look into that alternative possibility.

Chair Newton asked if the Commission has any authority over the construction of a pool. Principal Planner Neal stated they have authority over the amount of excavation. They would have to make the findings for denial. The owner said he is going to wait until the drought is over to fill the pool.

Chair Newton referred to the staff report and stated the code section citations should be 17.112.030 (A)(4) and 12.20.080(A).

Chair Newton opened the Public Hearing.

Mr. Charles Theobald, architect, made the following comments:

- The intent of these minor additions is that "when you leave you will never know they were there".
- Stylistically it is a continuation of what exists.
- They are trying to take advantage of the indoor/outdoor life style.
- The addition allows them to reorient the connections between the inside and outside.
- There are no visual impacts to the public.
- They want to keep the house looking the same and the new WUI allows a layer of fire resistant board behind a shingle product.
- He likes the comment about the greywater system and will discuss this with the owner.

Michael, landscape architect, made the following comments:

- He liked the comments about Dark Sky Lighting and the greywater system.
- There is no rear yard neighbor so the rear yard improvements will not impact any adjoining neighbor.

Chair Newton closed the Public Hearing.

Commissioner Green provided the following comment:

- The project makes sense.

Commissioner Swift provided the following comments:

- She made a correction to the table of comparable house sizes in the staff report.
- She could approve the project.
- She referred to the resolution and suggested the following changes: 1) On page 3, the first paragraphs should include Plan page C-1; 2) On page 8, Condition #31 should read: "All exterior...uplight panels) *as well as compliance with color temperature to minimize blue-rich lighting.*"

Chair Newton provided the following comments:

- She is torn about approving a pool during a drought and encouraged homeowner to be aware of the water use.
- She would like to see the citations for the findings included in the resolutions for the Design Review Permit, the Excavation Permit, etc.

Commissioner Gonzalez-Parber provided the following comments:

- She supports the project.
- The floor area ratio is the smallest in the neighborhood.
- The addition is in proportion to the site and improves the indoor/outdoor relationship.
- She agreed with Chair Newton in terms of the pool and asked if there was a way to put in a pump in the event of a fire.

Principal Planner Neal stated she included boilerplate Fire Department requirements and stated Condition #13 should be removed.

M/s, Fragoso/Swift, motion to adopt Resolution No. 2021-19 with the following changes: 1) On page 3, the first paragraphs should include Plan page C-1; 2) On page 8, Condition #31 should read: "All exterior...uplight panels) *as well as compliance with color temperature to minimize blue-rich lighting.*"; 3) Condition #13 shall be removed; 4) The code section citations should be 17.112.030 (A)(4) and 12.20.080(A).

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

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

Commissioner Fragoso noted two of tonight's applications pertained to the maximum size of a house (3,500 square feet) and she asked that the Commission discuss this policy at a later date.

## **MINUTES**

### **5. Minutes from the July 15, 2021 and July 29, 2021 Planning Commission meetings**

M/s, Fragoso/Swift, motion to adopt the July 15, 2021 minutes as corrected.

AYES: Fragoso, Green, Jansen, Kelly, Swift, Chair Newton

ABSTAIN: Gonzalez-Parber

M/s, Green/Gonzalez-Parber, motion to adopt the July 29, 2021 minutes as corrected.

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

## **Planning Directors Report**

### **6. Housing Element, Safety Element, Land Use Element, and Objective Design and Development Standards Update**

Planning Director Berto reported there has been a lot of activity with respect to the ODDS and the Housing Element including extra Public Hearings. Staff is working on a table showing a comparison of current zoning vs. ODDS Districts. Staff is also working on the issues regarding the Housing Element and how it integrates into the existing duplex districts, how it relates to larger parcels, and restrictions that would be applied based on topography and street access. The Affordable Housing Committee will be meeting in September with the Joint Meeting of the Council and the Commission scheduled for September 22<sup>nd</sup>. He asked the Commission to contact him about his or her availability. He is considering scheduling a Special Commissioner Meeting on October 14<sup>th</sup> to discuss the Safety Element and progress made on the ODDS.

Commissioner Swift asked for an updated project schedule.

Chair Newton asked about the status of holding in-person meetings. Public Works Director Berto stated September meetings will remain virtual.

Commissioner Fragoso had a question about the Regular Commission meeting in October.

### **Commissioner Comments and Requests**

Commissioner Swift asked staff if they got a response from the Town Attorney about her question regarding SB 330 and its reference to historical sites. Planning Director Berto stated he was told that this type of detailed legal analysis is best addressed in a specific context. Staff is aware of the issues and it is under review.

Commissioner Swift asked if existing accessory dwelling units (ADU) are considered existing housing stock according to Housing and Community Development (HCD) and the Association of Bay Area Governments (ABAG). Planning Director Berto stated "yes, if they have permits".

Commissioner Jansen had a question about modifying the code with respect to creek setbacks. Planning Director Berto stated he would like to recommend a finite, easily understood basis for determining "top of bank". Commissioner Fragoso stated she would like to see this incorporated into the ODDS.

Chair Newton stated prioritizing projects is difficult since there is so much to do and so few resources. She thanked staff for the great work!

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:37 p.m.

Respectfully submitted,  
Toni DeFrancis,  
Recording Secretary