

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, OCTOBER 21, 2021

Call to Order/Roll Call:

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

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

Commissioners Absent: Esther Gonzalez-Parber

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

APPROVAL OF AGENDA

M/s, Fragoso/Green, motion to approve the agenda as submitted.

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

ABSENT: Gonzalez-Parber

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Mr. James Anthony asked for clarification on item #3.

CONSENT CALENDAR

There were no Consent Calendar Items.

PUBLIC HEARING ITEMS

- 1. 169 Ridgeway Avenue; Application #21-19
Request for a modification of an approved Hill Area Residential Development, Design Review and Ridgeline Scenic Corridor permits to convert an area previously approved as a laundry/mechanical room into a den along with minor window/door changes;
Assessor's Parcel No. 001-280-01; Residential Single Family RD 5.5-7 Zone; Alex Riley, Architect; Dylan Riley, owner; CEQA categorically exempt per section 15301(e).**

Principle Planner Neal presented the staff report and described the modifications.

Chair Newton opened the Public Hearing.

Ms. Susan Riley made the following comment:

- They would like approval of this small office so they can continue to work at home.

Chair Newton closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- She has no concerns about the proposed minor changes.
- She wondered if the language requiring the applicant to come back to the Commission for certain modifications might be too strict.

Principal Planner Neal stated she thought the new requirement was working well. The intent is to prevent applicants from “pushing the envelope” and making increasingly significant changes to a project after the public hearing review was completed. .

Commissioner Green provided the following comments:

- He referred to the resolution and suggested the following change: On page 2, under Ridgeline Development it should read: “None of the proposed changes affect the mass of the building or significantly modify its design in a manner that would impact the views of the house which is located in the Ridgeline Scenic Corridor. Therefore the original findings for Ridgeline Scenic Corridor are still valid”. Chair Newton did not support this wording.

Chair Newton provided the following comments:

- She is supportive of this application.
- She referred to the resolution and suggested the following changes: 1) On page 1, the third “Whereas” should read: “... held a duly...”; 2) On page 2, #9 should read: “..is to conserve..”; 3) On page 3, #12 should read: “The design...Section 17.060.050..”; 4) On page 3, #13 should read: “The modifications....*reduce...comply...*”; 5) On page 5, #10 through #14 should be labeled as A, B, C, D, and E with subsequent renumbering; 6) On page 5 & 6, #16 and #17 should be labeled A, B with subsequent renumbering; 7) On page 6, #20 should read: “Any.. a modification of *this modified* Application..”; 8) On page 6, #22, the reference to the Design Review Board should be deleted; 9) On page 8, #41 should read “... *in effect...*”.

M/s, Green/Fragoso, motion to adopt Amended Resolution No. 2020-11 with the following changes: 1) On page 1, the third “Whereas” should read: “... held a duly...”; 2) On page 2, #9 should read: “..is to conserve..”; 3) On page 3, #12 should read: “The design...Section 17.060.050; 4) On page 3, #13 should read: “The modifications....*reduce...comply...*”; 5) On page 5, #10 through #14 should be labeled as A, B, C, D, and E with subsequent renumbering; 6) On page 5 & 6, #16 and #17 should be labeled A, B with subsequent renumbering; 7) On page 6, #20 should read: “Any.. a modification of *this modified* Application..”; 8) On page 6, #22, the reference to the Design Review Board should be deleted; 9) On page 8, #41 should read “... *in effect...*”.

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

ABSENT: Gonzalez-Parber

Chair Newton stated there was a 10 day appeal period.

2. 31 Forrest Terrace; Application #21-22

Request for a Conditional Use Permit, Tree Removal Permit, and a Parking Variance to construct a bedroom addition onto an existing single-family residence; Assessor’s Parcel No. 002-092-28; Residential Single Family RS 6 Zone; Fredric C. Divine Associates applicant; Colin Kelly and Shelley Clark, owners; CEQA categorically exempt per section 15301(e)(1).

Principle Planner Neal presented the staff report and noted the following changes to the resolution:

- 1) On page 1, in the third “Whereas” the words “as amended” should be deleted; 2) On page 2, the first paragraph should read: “The addition/remodel... *RS 6 Zone...*”. She answered questions regarding the references to RD 5.5-7 in the staff report; the reference to an Oak tree; the number and types of trees proposed to be removed; if the recommendation for tree removal has to come from a company other than the one performing the work; if staff has a “Bay tree bias”.

Chair Newton opened the Public Hearing.

Ms. Shelley Clark, owner, made the following comments:

- They are outgrowing their home.
- They both work from home.
- This is a modest renovation to a modest sized home.
- The request is to remove three Bay trees and top two other Bay trees.

Mr. Colin Kelly, owner, made the following comments:

- The biggest Bay tree is a concern since it extends over the existing house.
- They would like to cut down what is necessary based on a professional recommendation.

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

- The idea is to create a simple, modest addition- a small bedroom to a tiny cottage.
- This is a straightforward project that maintains the residence original character.
- Impact to the site would be minimal.
- They are using the existing patio area as the addition location thereby minimizing impacts to the site.

Ms. Debra (Dee Lee) Benson made the following comments:

- She is a member of the Tree Committee.
- She was able to enter the property and view the trees
- One of the Bay trees is dead and it makes sense to remove the others since they are so close to the addition.
- She could approve the removal of the trees and suggested a replacement plan.

Chair Newton asked the owners if they would be opposed to planting additional trees. Mr. Kelly stated “no”. Ms. Kehrlein noted the average slope is 49% and the lot is wooded.

Chair Newton closed the Public Hearing.

Commissioner Green provided the following comments:

- This is a modest project.
- He appreciated the applicant’s agreeing to replanting some trees.
- He agreed with the idea that having the parking space is better than requiring it to be covered.
- He can approve the project.

Commissioner Swift provided the following comments:

- She supports the application.
- The property is sloped. She would not be in favor of the requirement for planting additional trees.
- She referred to the resolution and suggested the following changes: 1) On page 1, the title should read “A Resolution...Tree Removal*Alteration* Permit...”. This wording should carry throughout.

Commissioner Fragoso provided the following comments:

- She agreed with staff about the Bay trees- they seem to be falling over. She did not have a problem with their removal.
- She is supportive of the project.

Chair Newton provided the following comments:

- She agreed with the comments made by Ms. Benson.
- There is no downside to requiring replacement trees but in this case there is no need to focus on the size.
- She referred to the resolution and suggested the following changes: 1) On page 2, #1 shall read: “Neither..*reasonably*...”; 2) On page 6, #17 should read: “*The applicant*...; 3) She would like a condition added for a one to one tree replacement.

Commissioner Jansen provided the following comment:

- He would be careful about requiring the replacement of trees and would rather leave that to the applicant.

Commissioner Green provided the following comments:

- He referred to the resolution and suggested the following change: 1) On page 2, #1 should read: “Neither...enforcement of the specific regulation *of the covered parking space or standard parking space size regulations*.”

Commissioner Fragoso provided the following comments:

- It is fine to ask them to replace the trees that they want to take down but not the dead trees or the trees they are topping since those will remain.
- They should not specify a size or type of tree but rather leave it to the applicants’ discretion.

Commissioner Kelly provided the following comments:

- He supports the project in general.
- It is not appropriate to ask for a one-to-one replacement.

Commissioner Green provided the following comments:

- He is usually opposed to taking out trees but in this case the removals are for the safety of the structures and residents and therefore are warranted.
- He does not want to make the applicants spend a ton of money replacing every tree.
- He would support replacing two trees at most.
- He does not want to require them to replace Bay trees.

M/s, Green/Fragoso, motion to approve Resolution No. 2021-25 with the following changes: 1) 1) On page 1, the title should read “A Resolution...Tree Removal*Alteration* Permit...” and this wording should carry throughout; 2) On page 2, #1 shall read: “Neither..*reasonably*...”; 2) On page 6, #17 should read: “*The applicant*...; 3) On page 2, #1 should read: “Neither...enforcement of the specific regulation *of the covered parking space or standard parking space size regulations*.”.

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

ABSENT: Gonzalez-Parber

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

CONTINUED ITEMS

3. 1930 Sir Francis Drake; Application #20-02

Consideration of a Cannabis Business permit application, Formula Business Conditional Use Permit, Design Review permit, and Sign Permit for a medical cannabis dispensary/adult delivery business permit for business permit scoring and recommendation on the required Design Review and Sign discretionary permits 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), 15303(c) and 15304(b).

Principle Planner Neal presented the staff report and noted the following change in the title of Resolution No. 2021-23: A Resolution... and *Provide Scoring on the Cannabis Business.*”

The change indicates that the Commission is providing scoring on the Cannabis Business Permit to the Town Council since it is not within the Commissions’ authority to deny the permit. Commissioner Swift noted the scoring was not for the permit but rather for the application. Principal Planner Neal stated she could change the wording to “Cannabis Business Permit *Application*”. Chair Newton suggested moving the wording about the scoring ahead of the recommendations on the Design Review and Sign Permit.

Town Attorney Coleson stated Chair Newton should not open the meeting to public discussion. The Commission should continue its deliberation from the last meeting.

Commissioner Green stated he did not attend the last meeting but viewed the video recording and read all the written material relating to the item before this meeting.

Principal Planner Neal answered questions regarding the signs.

Commissioner Green provided the following comments:

- He agreed with most of the thoughts.
- He could not make several of the findings including those in Section 17.032.060.
- Some of the language in the LLC’s Operating Agreement was in conflict with the presentation in terms of local control and management.
- He has no problem with the nature of the business and their model is very good.

Commissioner Jansen provided the following comments:

- He supported the resolutions.
- He was surprised at the focus on the signs since it did not seem to be much of an issue at the last meeting.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2021-22 and suggested the following changes: 1) On page 1, the fourth “Whereas” should refer to a singular application; 2) On page 2, the first heading should read: “General Use Permit *Required* Findings (B) and (D); 3) On page 3, Finding (D) “Further, the Town Center’s... activity patterns, including impact on neighborhoods adjacent to the Town Center”.

Commissioner Fragoso provided the following comment:

- Similar wording to suggested change #3 is included on page 2. Commissioner Green agreed.

Commissioner Swift provided the following comments:

- She referred to Resolution No. 2021-23 and suggested the following changes: 1) On page 1, the second and sixth “Whereas” should read, “...Business Permit *Application*”; 2) On page 2, the second “Whereas” should read, include the word “minimum”, and ..”the Council to *consider*...”; 3) On page 3, #1 should read, “...qualifying *application* score...”;

M/s, Fragoso/Jansen, motion to approve Resolution No. 2021-22 as amended by the Commission tonight.

AYES: Fragoso, Green, Jansen, Kelly, Swift

NOES: Chair Newton

ABSENT: Gonzalez-Parber

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

M/s, Green/Fragoso, motion to approve Resolution No. 2021-23, a recommendation that the Town Council deny the Design Review Permit, Sign Permit, and Cannabis Business Permit for the property at 1930 Sir Francis Drake Boulevard as amended by the Commission tonight. The title shall read: A Resolution of the Fairfax Planning Commission providing scoring on the Cannabis Business Permit Application and recommending that the Town Council deny the Design Review Permit and the Sign Permit for medical cannabis storefront retail/adult use retail delivery only business proposed to be located at 1930 Sir Francis Drake Boulevard.

AYES: Fragoso, Green, Jansen, Kelly, Swift

NOES: Chair Newton

ABSENT: Gonzalez-Parber

MINUTES

4. Minutes from the August 12, 2021, August 19, 2021, and September 16, 2021 Planning Commission meetings

M/s, Fragoso/Jansen, motion to approve the August 12, 2021 minutes as submitted and the August 19, 2021 and September 16, 2021 minutes as corrected.

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

ABSENT: Gonzalez-Parber

Planning Directors Report

5. Housing Element and Objective Design and Development Standards Update

Planning Director Berto presented a staff report. He noted the Planning Commission Housing Element Subcommittee will be meeting next Thursday to review the Safety Element. The Affordable Housing Committee will hold a meeting in November. Staff is planning to schedule a Special Meeting of the Planning Commission on December 9th to discuss the Housing Element, housing opportunity sites, and Objective Design and Development Standards (ODDS).

Commissioner Swift referred to the staff report, page 2, and asked what was meant by “multiple approaches to gather Fairfax story history of migration and development patterns”. Planning Director Berto stated this was referenced in last night’s Town Council meeting and pertains to AB 686.

Commissioner Swift asked about the status of the community neighborhood meetings that were discussed at the Joint Town Council/Planning Commission Meeting. Planning Director Berto stated staff will be creating neighborhood engagement groups via the Website.

Commissioner Swift asked if the Housing Element Subcommittee members would receive a copy of the Draft Safety Element before next Thursday’s meeting. Planning Director Berto stated “yes”.

Commissioner Green asked about the status of the ODDS Project and when it would be discussed by the Commission. Planning Director Berto stated the focus for the ODDS Subcommittee (Commissioners Green, Fragoso, Jansen) and will be on duplexes. This is the most straightforward aspect and will assist in looking at multi-family housing opportunity sites. He recommended the subcommittee review Chapter 8.

Commissioner Comments and Requests

Commissioner Swift thanked the community for speaking at the Association of Bay Area Government hearings regarding the Town’s Regional Housing Needs Assessment (RHNA) numbers.

Community Swift asked staff if they plan to map roadways that are not 20 feet wide as part of the Safety Element Update. Planning Director Berto stated the GIS consultant's schedule will not permit that project.

Planning Director Berto reported the Town Council considered General Plan text amendments at last night's meeting. This will be reviewed by the Commission at its next meeting.

Commissioner Fragoso asked if the Town Council has heard the appeal of the project at 80 Crest Road. Principal Planner Neal stated "not yet". She also reported that the Council upheld the Commissioner's approval of the project at 63 Spring Lane.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary