

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, APRIL 28, 2022

Call to Order/Roll Call:

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

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

Commissioners Absent: Robert Jansen

Staff Present: Linda Neal, Principal Planner

APPROVAL OF AGENDA

Principal Planner Neal asked the Commission to continue Public Hearing Item #3 to May.

M/s, Newton/Swift, motion to approve the agenda with the continuation of item #3 to the May meeting.

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

ABSENT: Jansen

PUBLIC COMMENTS ON NON-AGENDA ITEMS

Debra (Dee Lee) Benson, member of the Tree Committee, stated the committee needs guidance on the proposal that they take more responsibility in reviewing Vegetation Management Plans. She is not sure where the committee's responsibility begins and ends.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 54-56 Bolinas Road; Application #22-07
Request for Conditional Use Permit and Sign Exception Permit to operate a yoga studio; Assessor's Parcel No. 002-115-16; Central Commercial CC Zone; Leslie Desaulniers, applicant; Doug Wong, owner; CEQA categorically exempt per Section 15301(a).**

Principal Planner Neal presented the staff report. She noted Condition #7 should read: "The five parking spaces, or four if an ADA space is provided, shall be striped at the rear of the site as soon as possible. Failure to implement the restriping may result in Conditional Use Permit #22-06 being scheduled for possible revocation or modification of the Use Permit Conditions". She answered questions about the ADA space; the signage; the proposed colors; how this proposal compares to the dance studio use; if the Commission would be hearing this application if it is determined that yoga is an acceptable use; if the Commission previously created larger categories of use.

Chair Fragoso opened the Public Hearing.

Ms. Leslie Desaulniers, applicant, made the following comments:

- The property owner painted the exterior medium gray with black trim.
- She is not aware of any blade sign associated with her business.
- Her signs are decals- gold with a thin font. She does not plan to use any blade signs.
- She was planning to have a retail aspect (yoga items) as people walk into the building.
- Four parking spaces with one ADA space makes sense.
- The business will be one third the size of Rocco Dance.
- She will cater to adults with perhaps a few events.
- There is no step at the front entrance.
- The windows on the Bolinas side will remain as is.
- People walking by will be able to see in through the windows in the doors.
- She is open to suggestions about accessing the business (front vs. back).
- She would be happy to encourage people to carpool or bike to class.

Mr. Rick Hamer made the following comments:

- He spent 16 years living next door to Rocco.
- The Commercial Highway (CH) Zone has a category for “gymnasiums and athletic clubs”.
- The Limited Commercial (CL) Zone has a category for “dance and physical sculpture studios”.
- There is space available in both.
- “Yoga or fitness studios” is not listed as a permissible or conditional use in the Central Commercial (CC) Zone.
- He asked the Commission to examine Section 17.100.050 closely.
- Rocco patrons posed parking problems.
- The findings cannot be made for the Use Permit.

Mr. Frank Egger made the following comments:

- Bolinas Road is the Central Commercial Zoning area and runs a short distance.
- The Town has always tried to keep retail on Bolinas Road.
- A yoga studio is not a retail business.
- Fairfax should enforce its Town Codes.

Ms. Debra Benson made the following comment:

- One of the property owners along Bolinas Road was able to maximize income by leasing the space to a non-retail business.

Ms. Desaulniers made the following comments:

- She has a different business structure from the previous one.
- She does not anticipate the same clustering or congestion at the back of the building.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- He does not agree that only retail uses are allowed in the Central Commercial (CC) Zone.
- There are many uses listed that do not include the selling of goods.
- The Commission can consider similar businesses.
- A yoga studio would be quieter and less obtrusive than a dance studio.
- Neighbors will let the Town know if there is a problem and the Commission could revisit the application.
- He asked if retail sales should be required. This could increase traffic.

Commissioner Kelly provided the following comments:

- The studio has enlivened the street and he hoped the business could remain visually accessible and inviting.
- He would like them to use the front doors.
- The doors are incorrectly drawn on the plans- they swing out.
- He supported the addition of bicycle parking on Bank Street as part of the project.
- This conditional use is important to discuss- it will bring people into the Town Center.
- He does not see the need to require retail sales.
- He supports the project.

Commissioner Swift provided the following comments:

- She is concerned about the parking.
- They are not using the entire building and the other two units could be rented.
- She would like to add a condition that the front are closed and back doors are open when there is music
- Retail needs to be a part of this business. It should be a Condition of Approval.
- She referred to the Resolution and would like to add exterior paint colors to the section that requires that changes come back to the Commission.
- She supports the project.

Commissioner Newton provided the following comments:

- The list of what is allowed and not allowed in the downtown is inscrutable.
- She understood the desire to encourage pedestrian activities along Bolinas Road.
- The Bolinas side of the business should be engaging to people.
- A yoga studio would provide continuity and not be as jarring a change.
- The proposed music would not be intrusive if the doors were closed.
- Parking is difficult in the back. It would be a disservice to require an ADA space.
- She could support the proposal.

Commissioner Swift provided the following comments:

- There is no ADA access to the back of the building.
- She did not support requiring an ADA space.
- Having five parking spaces would be more important.

Principal Planner Neal stated the Commission could delete Condition #7.

Chair Fragoso provided the following comments:

- A small retail aspect at the rear of the building would be appropriate.
- She has concerns about allowing events with music. Principal Planner Neal stated these events would be considered part of the yoga business use as long as they are occasional. Amplified music would not be allowed and it cannot become a music venue.
- This is an appropriate use for this site.
- She supports this proposal.

M/s, Swift/Green, motion to adopt Resolution No. 2022-10 with the following changes: 1) Condition #7 shall read: "The applicant shall maintain a retail area within the space"; 2) Condition #8 shall read: "The front doors (Bolinas Road) shall be shut during live music events"; 3) On page 3, the "Whereas", #3 shall read: "Any changes...planters, *exterior painting palette*, etc....."

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

ABSENT: Jansen

Chair Fragoso stated there was a 10 day appeal period.

The Commission took a 5-minute break at 9:00 p.m.

**2. 155 Forrest Terrace; Application #22-06
Request for Hill Area Residential Development, Design Review, Excavation and Tree Removal Permits to convert/expand an unpermitted garage storage structure into a single-family residence with an attached garage; Assessor's Parcel No. 002-192-50; RS 6 Zone; Jeff Kroot, Architect; Gary Dowd, Owner, CEQA categorically exempt per Section 15301(e) and 15303(a)**

Principal Planner Neal presented the staff report. She noted a change to the staff report. The Building Official now considers this to be a remodel, not a new house, and therefore it is not subject to the "All-Electric" Ordinance. She answered questions about why the Building Official changed his position; the location of the main house and the second unit; the comparison chart; size of the house and the Accessory Dwelling Unit (ADU); removal and replacement of trees; reseeded areas and irrigation; the April 26th Miller Pacific letter.

Chair Fragoso opened the Public Hearing.

Mr. Gary Dowd made the following comments:

- He has little to add to the staff report.
- He appreciated the help from staff- it has been a long journey.
- They have been working on cleaning up some messes.
- They are submitting a beautiful project.

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

- He asked if this is the project that was built with no permits about 35 years ago. Principal Planner Neal stated "yes".
- He asked if the access to the main house would continue to come from San Anselmo through Francis Drive. Principal Planner Neal explained that emergency response would access the site from Forrest Avenue while the residents would continue to access the structure at the rear from Francis Avenue.
- He asked if the project would block the public access trail from Hillside to Forrest Avenue.
- He recommended that the Commission place a rent control requirement on the ADU.

Chair Fragoso closed the Public Hearing.

Principal Planner Neal made the following changes to the Resolution: 1) On page 1, under the "Whereas", the question mark should be deleted; the second "Whereas" should read, "*The application..*"; under the fourth "Whereas", Policy LU-7.1.5 should read, "*New and...style, size, and mass*"; 2) On page 2, under Design Review, it should read: "*The irregular...two story structure*"; 3) On page 4, Condition #10, the last line should read, "*...excavation or...*"; 4) On page 10, Condition #50 (regarding electric service)) should be deleted and replaced with, "The site grading plan submitted for the Building Permit shall include details and criteria based on recommendations from the Geotechnical Engineer including, but not limited to, subgrade preparation, fill, soil criteria, fill placement, compaction requirements, etc. and include details for new pavement section thicknesses and construction specification for materials and compaction". Condition #51 should read, "Where grades of the driveway will exceed 15%, grooved concrete or other acceptable traction aids should be provided to ensure passability for passenger vehicles during wet conditions so that the on-site parking may be fully utilized. The proposed gravel driveway surface detail shown on page C 4.0 detail A is appropriate and acceptable for the lower relatively level portion of the driveway only." Condition #52 should read, "All drainage improvements must be design and sized to accommodate runoff from a 100-year storm event. Hydrologic calculations should be submitted indicating that the site drainage system has been designed in accordance with Town standards and to result in no net increase in peak flow rate during a 100-year storm. A plan modification, rip rap lining, check dams,

and driveway drainage to and near the existing drainage channel must be checked to confirm that discharge from the upslope culvert and surface water from the 100-year storm leaving the site will be less than and slower than the current conditions and the drainage will not overflow the drainage ditch. The preceding requirements shall be addressed by the engineer performing the hydrology study". Condition #55 should include: "Sloped surface shall be trimmed to expose firm soil which shall then be re-seeded and irrigated to grow erosion resistant vegetation".

Commissioner Swift provided the following comments:

- The Tree Removal Permit Conditions should include a one-to-one replacement of the tree.
- She referred to the Resolution, page 11, Condition #59, the last sentence should read: "A copy of the *recorded* agreement..."

Commissioner Newton provided the following comment:

- She pointed out a couple of typos.

Commissioner Green provided the following comment:

- Improving a derelict property should be applauded.

Chair Fragoso provided the following comment:

- This is a lovely set of plan and project.

M/s, Green/Kelly, motion to adopt Resolution No. 2022-09 with the revisions stated by Principal Planner Neal and Commissioners Newton and Swift.

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

ABSENT: Jansen

Chair Fragoso stated there was a 10 day appeal period.

3. Senate Bill 9-Related Ordinance; Continued consideration of an Ordinance amending Fairfax Town Code by adding Chapter 16.22 Urban Lot Splits and Chapter 17.049 Two Unit Projects. This Ordinance is statutorily exempt from the California Environmental Quality Act ("CEQA") as an action by a city or county implementing the provisions of Government Code Section 66411.7 and 65852.21.

Chair Fragoso stated this item has been continued to the May meeting.

Commissioner Green stated he would like the Commission to hold a "retreat/gathering". He noted he needed to abstain from voting on the minutes. He left the meeting.

MINUTES

5. Minutes from the March 24, 2022 Planning Commission meetings

M/s, Newton/Swift, motion to approve the March 24, 2022 minutes as submitted.

AYES: Kelly, Newton, Swift, Chair Fragoso

ABSTAIN: Green

ABSENT: Jansen

Planning Directors Report

There was no report.

Commissioner Comments and Requests

The Commission discussed the comment made during Open Time about the responsibilities of the Tree Committee and the Tree Removal Permit process.

Chair Fragoso asked about the date for the Special Meeting in May. Principal Planner Neal stated the tentative date was May 19th.

Chair Fragoso asked if the Council is looking at rent restrictions. Principal Planner Neal stated they have heard some presentations.

Chair Fragoso asked about the status of the Housing Element. Principal Planner Neal stated that is being handled by the consultants and the Town Attorney.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:53 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary