

FAIRFAX PLANNING COMMISSION MEETING MINUTES
SPECIAL HYBRID MEETING/VIA TELECONFERENCE ONLY
THURSDAY, MAY 19, 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
Robert Jansen
Brett Kelly
Mimi Newton

Commissioners Absent: Cindy Swift

Staff Present: Heather Abrams, Town Manager
Janet Coleson, Town Attorney
Linda Neal, Principal Planner

APPROVAL OF AGENDA

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

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

ABSENT: Swift

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

PUBLIC HEARING ITEM

- 1. Outdoor Dining Enclosure Encroachments Ordinance: Consideration and possible recommendation to the Town Council for adoption of an Ordinance allowing ministerial issuance of Revocable Encroachment Permits to allow outdoor dining in public spaces in the CH Highway Commercial and CC Central Commercial Zones. The Ordinance proposes minor amendments to Town Code Title 12, Chapter 12.32 ('Temporary Carports and Other Structures in the Public Right-of-Way'), Title 17, Chapter 17.096 ('CH Highway Commercial Zone'), Section 17.096.040 ('Principal Permitted Uses and Structures') and Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.040 ('Principal Permitted Uses and Structures'), to Allow Outdoor Dining Enclosures as Permitted Uses for Commercially Developed Properties in the CH and CC Zone Districts. Ordinance is exempt from CEQA, Sections (CEQA) Guidelines Section 15060(c)(2), 15601(b)(3), and 15305.**

Principal Planner Neal presented the staff report. She noted the following change; On page 2, the second paragraph, the last sentence shall read: "Upon filing of the application the same shall be processed ministerially by the Public Works Director or the Building Official and issued as long as the outdoor dining enclosure complies with the commercial outdoor dining specifications contained in Town Code, Title 5".

Town Attorney Coleson stated the Council will be reviewing the Ordinance and the Resolution and the Commission is reviewing the code changes to the CH and CC Zones and the encroachment. Staff answered questions about any changes in the specifications; comments from utility companies; short-term vs. long-term issues; design standards with respect to safety; other building or commercial spaces that are not under the purview of the Commission or do not require Design Review; applicability of Chapter 12.32.020 to commercial and residential; if the Commission reviewed specifications in the past; Section 12.32.025, "Permit Application", and revisions to design standards.

Chair Fragoso opened the Public Hearing.

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

- Bolinas Road is the emergency fire evacuation route for over 3,000 residents.
- The Town should install signs with this information.
- Parklets should not be allowed on Bolinas Road.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- There could be complaints about outdoor entertainment.
- He wanted language inserted into Chapter 12.32.025 that would say: "Outdoor dining areas may not provide live or amplified entertainment of any kind".
- He would like the process to include the ability of the public to comment and to have a review process of the outdoor dining areas every six months or so.

Commissioner Jansen provided the following comments:

- This will have a large effect on the appearance of the Town depending on how the specifications are put together.
- They are "putting the cart before the horse".
- Chapter 12.32.025 talks about building in the public streets or right-of-way which could be a lot of things. This needs to be tightened up and he recommended eliminating "right-of-way".
- The language in Chapter 17.096.040 is incomplete and the list includes things that should be deleted (car mechanic, bank) and added ("outdoor dining"). The number of intended uses is very limited.
- He supported streamlining this process and developing these uses depending on the specifications.
- He is not sure how a decision can be made without knowing the specifications.

Commissioner Newton provided the following comments:

- She asked if the specifications address the safety concerns raised by Mr. Egger and others including evacuation, accessibility, things blowing off, easy dismantling and removal, etc.
- The Commission has not opined about the issue of parklets.

Commissioner Green provided the following comments:

- He agreed with the comments made by Commissioners Newton and Jansen.
- He asked if the Commission received the new language of Chapter 12.032.025. Principal Planner Neal stated "no"- she read it out loud.
- He was concerned that the new language was not available to the public.

Chair Fragoso provided the following comments:

- She asked if the Council decided on a one-year extension on the existing short-term CUPs. Town Attorney Coleson stated she thought it was extended to the fall. Town Manager Abrams stated there is a July 29th check in date.

- She asked if the Commission could recommend prohibiting live music in the outdoor entertainment areas. Town Attorney Coleson stated “yes”.
- She asked if there would be an opportunity for the Commission to review the semi-final specifications. Town Attorney Coleson stated that is not part of the plan.
- The specifications are not within the Commission purview but rather they are being asked to give a recommendation on bifurcating the residential and commercial procedures for structures on private property or within a public right-of-way.

Commissioner Green provided the following comment:

- He referred to the Resolution and suggested the following changes: 1) On page 2, under “Now, Therefore, Be it Resolved”, it should read: “... the Planning Commission....this Ordinance, as *potentially amended based on a hearing of May 19th, public comments, and Commissioner language suggestions, may be consistent...*”

Town Attorney Coleson stated similar language could be added to the resolution.

Commissioner Newton provided the following comments:

- She is not a big fan of the idea of keeping parklets after the pandemic for a lot of reasons.
- She would recommend that the Fire Department weigh in on some of the concerns regarding access, evacuation, etc.

Commissioner Jansen provided the following comment:

- The last page of the resolution should note this is a Special Commission meeting.

Commissioner Kelly provided the following comments:

- He was surprised that there will be built spaces that are not subject to Commission review or Design Review.

Commissioner Green made a motion to approve Resolution No. 2022-11 with language similar to Commissioner Green’s suggestion about concerns expressed by the Commission and the public. The motion died for lack of a second.

Commissioner Jansen provided the following comments:

- He remains concerned about not knowing the specifications. He needs to see them.
- He suggested a continuance.

Town Attorney Coleson stated the Council is on a tight time-frame and would like to see this brought to them at the June 1st meeting. The existing structures need to be modified by November 1st.

Chair Fragoso provided the following comment:

- She asked about the options. Town Attorney Coleson stated they could give a negative recommendation if they are unable to give a positive one.

Commissioner Newton provided the following comments:

- She could not second Commissioner Green’s motions since she is fundamentally opposed to the parklets.
- However, the Commission is not the deciding body.

Commissioner Green provided the following comment:

- There are too many outstanding issues to approve this.

Chair Fragoso provided the following comment:

- She asked if the Commission agreed with the bifurcation of the residential and commercial and to split the codes into different section.

Commissioner Green provided the following comment:

- They are very different with the commercial portion being more involved.
- Perhaps the Council needs to revisit this entire issue.

Town Attorney Coleson reiterated the Commission recommendation with respect to the code changes can be positive or negative.

Commissioner Jansen provided the following comment:

- He cannot make a determination in support or opposition until he sees the specifications.

Town Attorney Coleson stated staff is reluctant to bring things to the Commission that is not within their purview.

Commissioner Newton provided the following comments:

- She is not in favor of sending a message to the Council that they cannot make a decision without seeing the specifications. They are not in the Commission's purview.

Commissioner Jansen provided the following comment:

- He suggested denying the resolution because it is not a good idea to remove the commercial parts outside of the Commission's review.

Principal Planner Neal discussed the existing Encroachment Permit Process and the Permit Streamline Act. The Council is trying to avoid a long, drawn out process.

Chair Fragoso provided the following comments:

- The code should be bifurcated.
- It should be a ministerial review.
- The Commission can determine criteria for ministerial reviews.

M/s, Jansen/Newton, motion to recommend that the Council adopt the Ordinance which would bifurcate the code as suggested taking into consideration the comments made during this meeting

AYES: Green, Jansen, Newton, Chair Fragoso

NOES: Kelly

ABSENT: Swift

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 8:40 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary