

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, OCTOBER 27, 2022

Call to Order/Roll Call:

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

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

Staff Present:                                David Woltering, Interim Planning Director  
Linda Neal, Principal Planner  
Kara Spencer, Associate Planner

**APPROVAL OF AGENDA**

M/s, Newton/Green, motion to approve the agenda with the following change: the Planning Director's Report will be placed in front of Commissioner Comments and Requests.

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

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

**CONSENT CALENDAR**

1. Setting the regular meeting dates for the November and December 2022 Planning Commission meetings as November 17, 2022 and December 15, 2022

M/s, Swift/Feffer, motion to adopt Resolution 2022-31.

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

**PUBLIC HEARING ITEMS**

2. **35 Wreden Avenue.; Application #2022-21  
Request for a Conditional Use Permit, Combined Side-Yard Setback Variance and Parking Variance for a remodel/expansion of an existing 1,182 s.f., single-family residence. Project includes reconstruction/reorientation of the front entry stairs; APN # 002-014-10; RS-6 Single-Family Residential Zone; Christopher Arnold, applicant; Christopher and Kristin Arnold, owners; CEQA categorically exempt per Section 15301(e)(1).**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding the reference to the Planning Commission on page 10 of the resolution, paragraph nine with respect to approval for modifications; the parking requirements; how the parking requirement would change if the plan included an Accessory Dwelling Unit (ADU).

Chair Fragoso opened the Public Hearing.

Ms. Kristin Arnold, owner, made the following comments:

- The front door is in the middle of the house.
- They want to move the front door and make a small entryway and create an office.
- This would help accommodate their growing family.

Chair Fragoso closed the Public Hearing.

Commissioner Jansen provided the following comments:

- The plans look good and the request is minor.
- The house remains the same.
- He is worried about the compact parking spot.
- The slope from the apron to the garage door is steep (about 15%)
- He does not think this qualifies as an official compact spot.
- Legalizing this would set a precedent.
- The owner could certainly still park in that spot.
- The street is wide and there is a public parking spot in the front.

Commissioner Kelly provided the following comments:

- He agreed with Commissioner Jansen.
- The apron should not count as a spot.
- The addition is just large enough to be a legal bedroom.
- The capacity of the house has grown with the parking demand increasing.

Commissioner Green provided the following comments:

- He is amazed at what fifty one additional square feet can do to a house.
- He would like to see this project move forward.
- He agrees with the other Commissioner's concerns.
- The street is wide and the parking might not be critical.
- This is such a minor project.

Principal Planner Neal explained the parking code and requirements. If the Commission looks at the site and believes there is a 9 X 22 foot space along the property frontage that meets the guest parking space requirement then they could make the determination that the property conforms to the minimum parking requirements.

Commissioner Swift provided the following comments:

- She asked if the Town has a definition in the code for a "bedroom". Principal Planner Neal stated "no".
- The addition is called a "bedroom/office" in the plans.
- She is concerned with not having the third guest parking space because of the issue of narrow roads and parking.

Commissioner Jansen provided the following comments:

- Whether it is a bedroom or not is irrelevant since it does not change the parking requirement.
- The concern is not about whether there is enough room to park.
- The concern is setting a precedent about making a compact space that partially overhangs the property line that is at an incline and blocking the front of the garage a legal third required space.
- The project can be approved without the variance for parking or defining in the drawings that this is a parking spot.

Commissioner Feffer provided the following comment:

- He agreed with Commissioner Jansen.

Commissioner Newton provided the following comments:

- She loves the ingenuity in the design.
- They would be allowing the existing non-conformance to continue without a variance.
- She agreed that they do not want to set a precedent about codifying a small size space in front of the garage.

Chair Fragoso provided the following comments:

- She agreed with Commission Newton about the non-conforming nature of the structure.
- She could approve the project without the required Parking Variance.

Commissioner Green provided the following comments:

- There might be another way around this that would avoid creating a precedent.
- He pointed out the very unusual configuration and non-conforming nature of the property.

Interim Planning Director Woltering stated the Commission could eliminate the Parking Variance from the resolution due to the very small modification and the negligible or non-existent impact.

Commissioner Newton provided the following comment:

- She made several edits to the resolution.

Commissioner Green provided the following comment:

- He referred to the resolution and recommended, under the Conditional Use Permit Findings, some additional language taken from the staff report. Interim Planning Director Woltering stated the language in the resolution was adequate. Staff could certainly try to be more specific about the rationale in the future.

Commissioner Swift provided the following comments:

- She asked if the Parking Variance was related to the Combined Side Yard Setback Variance. Principal Planner Neal stated “no”. On page 2 of the resolution, under Combined Side Yard Setback Variance, the first sentence in #1 should be deleted and the following should be added: “The addition will maintain a greater combined setback than the existing house”

M/s, Jansen/Newton, motion to adopt Resolution No. 2022-29 with the following changes: 1) On page 2, paragraph 4, “and the” is repeated twice; 2) On page 5, #11, the reference to the Design Review Board should be deleted; 3) On page 2 of the resolution, under Combined Side Yard Setback Variance, the first sentence in #1 should be deleted and the following should be added: “The addition will maintain a greater combined setback than the existing house”; 4) Reference to a Parking Variance shall be deleted throughout the Resolution.

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

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

- 3. 109 Broadway (Fairfax Lumber); Application #2022-22  
Request for a Fence Height Variance, Design Review, and an Encroachment Permit to erect an 8-foot tall fence along approximately 350 linear feet of the rear property line along Spruce Road and install a planting buffer within the Spruce Road right-of-way: APN #001-148-13; Service Commercial CS Zone; Fairfax Lumber, applicant; San Rafael Lumber Company, owner; CEQA Categorically exempt per Section 15303(e)**

Chair Fragoso disclosed that she had a discussion with a staff member at Fairfax Lumber about the neighbor concerns prior to the Council meeting. She did not think she needed to recuse herself from this item.

Principal Planner Neal presented the staff report. Staff is recommending adding the following to the resolution: 1) "The fence shall be maintained in good repair by the Lumber Yard and failure to properly maintain the fence will result in Code Enforcement proceedings being taken against the Lumber Yard to restore the fence to its original condition". 2) "A Landscaping Plan shall be prepared by a licensed architect and shall include the plant species, size, and planting locations and the location of the irrigation system drip lines and automatic timing system for approval by the Planning Director prior to the start of construction. Specific screening material used to create the visual vegetative barrier will be determined as part of the Landscape Plan". She answered questions from the Commission regarding whether the fence at the increased height would need a Building Permit; where the privacy panels are being proposed; the use of the art deco panels; the neighborhood concerns.

Chair Fragoso opened the Public Hearing.

Augie, representing Fairfax Lumber, made the following comments:

- They are addressing three issues: visual, longevity, and fire safety.
- He understood the drawings were inadequate. They will submit better plans.
- Shrubbery placed in front of the panel would help to break up the visual aspect of the panels.
- Steel panels will last a long time and are noncombustible.

The Commission took a 5-minute break.

Ms. Susie Bergen, Spruce Road, made the following comments:

- A subcommittee has met which includes two Councilmembers and several residents.
- All fences in the neighborhood are wood- this is not a commercial neighborhood.
- A long stretch of corrugated metal fencing would be unsightly.
- She supported the eight foot variance but would like the subcommittee to discuss the other issues.

Ms. Kendra Scott, Spruce Road, made the following comments:

- PG&E transformers along that road have exploded with live wires on the ground.
- These wires could hit that metal fence.

Ms. Hillary Wittman, Spruce Road, made the following comments:

- She was not in favor of a corrugated metal fence.
- She supports a wood fence – it would be in keeping with the neighborhood.

Mr. Ryan Morgan, Spruce Road, made the following comments:

- They want the business to thrive.
- He agreed with the other neighbors- metal is out of character.
- The neighbors want some say in the final Design Review application.

Mr. Tim Horn, Spruce Road, made the following comments:

- He supports a wood fence.
- The neighborhood is concerned about the appearance of the fence.
- The business should be required to maintain the fence and the plantings.

Ms. Jennifer Hibbits, Spruce Road, made the following comments:

- She shares a property line with the lumber yard.

- She supports a wood fence.

Ms. Tara Hernandez, Spruce Road, made the following comments:

- She supported an eight foot fence.
- She is concerned about an encroachment that would result in a loss of parking and an impact the vegetation.

Ms. James Riley, Spruce Road, made the following comments:

- He is not in favor of a metal fence.
- He is concerned about the maintenance of the fence.
- Fairfax Lumber was built after the subdivision in the residential neighborhood.

Mr. Rick Hamer made the following comment:

- Most of downtown Fairfax was residential small lots at the turn of the century.

Mr. Michael Macintosh made the following comment:

- He asked if a pre-existing use that is changed over time is legal non-conforming.

Chair Fragoaso closed the Public Hearing.

Interim Planning Director Woltering asked the Commission to provide direction on what they want to see in terms of Design Review. Staff will work with the applicant, the subcommittee, and the neighborhood and come back with a plan.

Commissioner Swift provided the following comments:

- She had questions about parking, encroachment on existing plantings, and feedback from the Ross Valley Fire Department about electrification of a metal fence.
- A landscape plan needs to come back addressing the posts and number and species of plants.
- Thought should be given to the amount of corrugated metal fence, the privacy panels, and colors.

Commissioner Jansen provided the following comments:

- There is a lot of design work to be done.
- They need plans and elevations showing the materials, location of plants and parking, and dimensions.
- They need to submit a rendering of what will be seen from the street.
- This is a very large element because of its length.
- Nobody seems to be concerned about the height.

Commissioner Newton provided the following comments:

- She agreed with Commissioner Swift and Jansen.
- She would like to see how the fence framing will be treated.
- The building is old and full of character.

Commissioner Kelly provided the following comments:

- Consideration should be given to how this element in the public right-of-way can age gracefully.
- The scale is odd in this neighborhood.
- He suggested considering the following design elements: the repetition and rhythm, breaking down the length, the materiality.
- Parking needs to be considered.
- The “greenness” and plantings should be a priority.
- He did not want to see a big, long, tall, eight-foot barrier.
- He cannot make a decision based on the information that has been submitted.

- This is a classic case of “good fences make good neighbors”.

Commissioner Feffer provided the following comments:

- There were two, distinct issues with respect to the metal fence.
- Fire safety experts should be relied upon with respect to materials.

Chair Fragoso provided the following comments:

- They do not have enough information.
- She does not have a problem with the height.
- The “elephant in the room” is the parking.

Commissioner Green provided the following comment:

- He has a problem with the drawings.
- He is not sure about the placement of any of the elements.
- The fence is necessary.

M/s, Swift/Kelly, motion to continue Resolution No. 2022-30 to a date uncertain.

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

#### **4. Gas Station Ordinance: Discussion/Consideration of a proposed ordinance prohibiting new gas stations and prohibiting expansion of fossil fuel infrastructure at existing gas stations: CEQA categorically exempt per Section 15307, 15308, and 15061(b)(3)**

Interim Planning Director Woltering presented the staff report. He noted a minor typographical error in the staff report and the ordinance. Staff answered questions from the Commission regarding anticipated requests for future gas stations; how this policy would reduce traffic congestion; proposed change in the definition of a gas station and unintended consequences; the impact of identifying businesses as legal non-conforming; if existing gas stations would be able to expand the business; allowable uses; how underground storage tanks are used; does the replacement of tanks require a Building Permit.

Chair Fragoso opened the Public Hearing.

Mr. Woody Hasting, representing the Coalition Against New Gas Stations, made the following comment:

- He supported the ordinance.
- The ordinance would help the Town deal with undesirable land use applications that would have negative consequences.

Dr. Jody Timms, Chair of the Climate Action Committee, made the following comment:

- She supported the ordinance.
- Fairfax adopted a Climate Emergency Resolution setting a goal of zero emissions by 2030.
- The ordinance moves the Town in this direction.

Chair Fragoso closed the Public Hearing.

Commissioner Green provided the following comments:

- He cannot recommend the ordinance as written.
- The definition of “filling/service station” is too broad and includes some things that are necessary for electric cars.
- He has a problem with the 180 day timeline. It could be challenged as a “taking”.
- The 180-days could be a period of time in which the applicant could apply for more time.
- He was concerned about Fairfax being gas station free.

- EV infrastructure could be based on what is contained in the Climate Action Plan
- Filling up a gas can should be prohibited.
- He is concerned about enforceability.

Commissioner Newton provided the following comments:

- She referred to the ordinance, Section 17.008.020, Definitions, “Filling Station”, and suggested the following: “A retail business...include facilities *selling related products* for washing...”. Under Section 17.016.080, (H), she would like to see language that provides for other types of modifications to the fossil fuel infrastructure underground storage tanks.
- She does not want to include the language about hazard substance or waste tanks.

Commissioner Feffer provided the following comments:

- He is glad this is coming up in the context of climate and electrification.
- The ordinance is fine.
- He has no issue with the changes suggested by Commissioner Newton.

Commissioner Jansen provided the following comments:

- Electric vehicles are superior.
- He supports the ordinance.

Commissioner Swift provided the following comment:

- She would like to see this item continued to address the Commission concerns. Town Attorney Coleson stated the Council would like to see this ordinance as soon as possible.

Commissioner Kelly provided the following comments:

- As a Planning Commission they are regulating this in the wrong way.
- The market in Town should dictate what happens with this issue.
- The ordinance does not feel “Fairfax” to him- it is a prohibition of a certain industry.

Chair Fragoso provided the following comments:

- She has no issue with the ordinance as written.
- Testing, reporting, and cleanup of underground tanks should be required.
- The Commission seems supportive in general.

M/s, Feffer/Newton, motion to recommend adoption of the Ordinance to the Town Council with the following changes: 1) The eighth “Whereas” and Section 17.016.080, (H), shall be clarified by the Town Attorney with respect to the establishment of use in the event of any legal require changes to the underground storage tanks; 2) Section 17.008.020, Definitions, “Filling Station”, and suggested the following: “A retail business...include facilities *selling related products* for washing...”. 3) Direct staff to address the location of tanks, legal or otherwise.

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

NOES: Kelly, Swift

**5. Driveway Entrance Ordinance: Discussion/Consideration of ordinance transferring Authority to review and grant exceptions to the residential and commercial driveway width and number regulations from the Town Council to the Planning Commission and expanding the variance language contained in the various residential and commercial zone districts to include the option to consider driveway entrance variances; CEQA categorically exempt per Section 15301(e), and 15303 (a) and (c) and 15305.**

Principal Planner Neal presented the staff report. She referred to the ordinance, Section 21, and stated the UR Upland Residential Zone should be moved to Section 16. All the residential zones will be in the beginning of the ordinance and the commercial zones will be renumbered. This change

also applies to the Ordinance Title. She answered questions regarding whether this applies to existing and new development; if this applies to parking structures; if fencing and fencing heights should be addressed; if there is interplay with the Housing Element and the Objective Development and Design Standards (ODDS).

Chair Fragoso opened the Public Hearing.

There were no comments.

Chair Fragoso closed the Public Hearing.

Commissioner Swift provided the following comments:

- This is long overdue.
- She supports the ordinance.

Commissioner Green provided the following comment:

- He supports the ordinance.

M/s, Swift/Jansen, motion to adopt Resolution No. 2022-28 with the changes recommended by Principal Planner Neal

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

## **MINUTES**

### **6. Minutes from the September 22, 2022, and September 28, 2022 meetings**

M/s, Newton/Jansen, motion to approve the September 22, 2022, minutes as corrected and September 28, 2022, as submitted.

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

ABSTAN: Green

### **Planning Director's Report**

Interim Director Woltering reported at the upcoming meeting the Council will consider adoption of the update Building Code, and the Rent Stabilization and Just Cause Evictions Ordinance, consider the transition to a new team to develop the Housing Element, and fees for parklets. He answered questions about parklets including location and music; if previous work done on the Housing Element will be made available to the new consultants; applications coming to the Commission.

### **Commissioner Comments and Requests**

Commissioner Swift asked if staff has decided where the Housing Element documentation would be housed. Interim Planning Director Woltering stated this is a work in progress but the document would be made available on the Town Website and Fairfax Speaks.

Commissioner Swift asked for an update on the Marinda Heights (a.k.a. Wall Property) project. Interim Planning Director Woltering stated the property owner wants to work with the Town on some type of project to get something moving.

Commissioner Newton welcomed newly appointed Commissioner Feffer. She also thanked staff for their hard work- bravo !!

## **ADJOURNMENT**



A motion was made, seconded and unanimously approved to adjourn the meeting at 11:43 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary

DRAFT FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, JANUARY 26, 2023

Call to Order/Roll Call:

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

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

Staff Present: David Woltering, Interim Planning Director  
Linda Neal, Principal Planner  
Kara Spencer, Assistant Planner

#### APPROVAL OF AGENDA

M/s, Jansen/Fragoso, motion to approve the agenda as submitted.  
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

#### PUBLIC COMMENTS ON NON-AGENDA ITEMS

Chair Swift announced that Commissioner Green has resigned and there is a vacancy on the Commission.

#### CONSENT CALENDAR

- 1. 129 Lansdale Avenue; Application # 23-03  
Request for a Conditional Use Permit, Design Review Permit, and a Front Yard Setback Variance for an interior/exterior remodel of an existing 2,442 s.f. single family residence; Removal of approximately 1,700 sq. ft. of impervious paving and stairs; installation of new landscaping and pervious paving; construction of new front entry stairs and porch; and a new, attached pergola and 599 sq. ft. deck. AP # 002-201-36; RD 5.5-7 Residential Zone; Andrew Davis, Fluid Studios, applicant; Kate MacLaughlin and Sampson Goff, owners; CEQA categorically exempt per Section 15301(a).**

Principal Planner Neal stated this item should be continued to the February 16, 2023 meeting due to a noticing error.

Chair Swift opened the meeting to public comments.

There were no comments.

Chair Swift closed the meeting to public comments.

M/s, Newton/Fragoso, motion to continue this item to the February 16, 2023 meeting.  
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

## **PUBLIC HEARING ITEMS**

### **2. 197 Bothin Road; Application # 23-01**

**Request for a Conditional Use Permit, Design Review, and a Combined Side Yard Setback Variance for and remodel of a 1,425 sq. ft. single-family residence;  
Conversion of the existing 392 sq. ft. attached garage into a 392 sq. ft. JADU;  
Construction of a new 302 sq. ft. detached one-car garage; APN # 001-082-46; RS-6  
Single-Family Zone; John Clark Architects, applicant; Mike Tzortzis and Shannon Snyder, owners; CEQA Categorically exempt per Section 15303(e).**

Commissioner Feffer stated he has a professional conflict of interest and is recusing himself from this item.

Assistant Planner Spencer presented the staff report. She answered a question from the Commission regarding whether staff received any correspondence from neighbors.

Chair Swift opened the Public Hearing.

Mr. Mike Tzortzis, owner, made the following comments:

- They need more room to accommodate a family member.
- They are also expanding the kitchen and living room.
- The creek flows smoothly and does not come over the bank as the culvert functions well.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- This is a really nice design.
- It will be an improvement to the property and the neighborhood.
- There was no specific analysis about the creek and the proximity to the deck in the staff report.
- She likes the fire-rated roof.
- She supports the project.

Commissioner Jansen provided the following comments:

- The design is very smart.
- All the additions to the building by itself do not encroach on the 20' combined setback.
- All the new parts are set back.
- He supports the project.

Commissioner Kelly provided the following comments:

- He agreed with Commission Jansen.
- The project is handsome, well proportioned, and uses materials well.
- The project fits into the landscape well.
- He is not concerned about the combined setback issue because of the odd shape of the site.
- The project would have very little impact on the neighborhood.
- He supports the project.

Commissioner Newton provided the following comments:

- She supports the project.
- She referred to the resolution and suggested the following changes: 1) On page 2, the first paragraph should read: "While *the* proposed project would result *in* the..."

Chair Swift provided the following comment:

- She supports the project.

M/s, Jansen/Fragoso, motion to adopt Resolution No. 2023-01 with the minor corrections made by Commissioner Newson.

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

RECUSED: Feffer

Chair Swift stated there is a 10-day appeal period.

Commissioner Feffer returned to the meeting.

### **3. 67 Tamalpais Road; Application # 22-29**

**Request for a Hill Area Residential Development Permit, Excavation Permit, Design Review Permit, Tree Removal Permit, Encroachment Permit and Retaining Wall Height Variance, Side Yard Setback Variance, and Combined Front/Rear Side Yard Setback Variance and Driveway Width Variance to construct a 1,772 s.f. single-family residence with a 497 s.f. attached junior accessory dwelling unit and a 315 s.f. attached 1-car garage; Assessor's Parcel # 001-123-03; RS-6 Single-Family Residential Zone; Ron Kappe, architect/applicant; Stephen Altman, owner; CEQA categorically exempt per Section 15303(a).**

Principal Planner Neal presented the staff report. She noted the following changes to the Resolution: 1) On page 12, Condition #60 should end after the discussion of the drainage system maintenance agreement; 2) The Dark Sky Compliance Condition (included in Condition #60) should be Condition #61 with subsequent renumbering; 3) The first sentence in Condition #62 shall be eliminated; 4) The addition of Condition #63 which shall read: "The revocable encroachment document memorializing the approved revocable encroachments must be signed, notarized, and recorded at the Marin County Recorder's Office prior to issuance of a Building Permit". She noted there were several corrections to the staff report. She answered questions from the Commission regarding the Combined Side Yard Setback Variance; the Combined Front Rear Setback Variance; the easements; the reference to plans dated July 1, 2021 on page 3 of the Resolution; mislabeled elevations; if Condition #39 takes the Spotted Owl requirement into account; if the letters that staff receives are a matter of public record; parking and the retaining wall; if the neighbor's ADU sits on the property line.

Chair Swift opened the Public Hearing.

Mr. Ron Kappe, architect, made the following comments:

- He is open to questions.
- The deck in the rear is a concrete slab on grade patio with a retaining wall.
- The height of the retaining wall goes from three to twelve feet. It is intended to hold back the hill.
- They estimated 867 cubic yards of excavation.
- The lower level was shown as white in the color elevation but they have no problem changing it to grey.
- The building will be five feet, at its narrowest point, from the building next door.

Mr. Frank Egger made the following comments:

- He asked when the parking decks on the top of the lot were built.
- He thought the lots were merged at the time the decks were approved in the 1970's.
- He is concerned there is overdevelopment of this steep lot.
- The property to the west will be adversely impacted.

Chair Swift closed the Public Hearing.

Commissioner Newton provided the following comments:

- She noted several typographical errors on Page 3 of the Resolution.
- On page 4 of the Resolution, the last paragraph should indicate the corrections to Plan Page A 3.0 and A 3.2 which correctly labels the elevations.
- On page 6, Condition #14 should refer to the January 23, 2023 Tree Committee meeting. Principal Planner Neal stated it could be eliminated given the Commission's action at that meeting.

Commissioner Jansen provided the following comments:

- This is a nice design.
- It utilizes the maximum area that can be put on the site.

Commissioner Kelly provided the following comments:

- If the grey were turned to a white color it might create too much contrast.
- He is on the fence about the color palette
- This is a nice design, quite striking, and well-articulated.
- The design could have another layer of filigree and additional human scale detail.
- It should be more visually inviting to the neighborhood and fit in.
- There are some big bathroom windows on the upper story that look at the neighbor's deck.
- The siting of the building is concerning and sets a bad tone for the neighborhood.
- The building should be moved ten feet to the east.
- The house next door is a fire hazard to the new project.

Commissioner Jansen after consideration of Commissioner Kelly's comments, provided the following additional comments:

- He agreed with Commissioner Kelly.
- The FAR should include the parking pads built in the setback area.
- He cannot make the Findings in Section 17.028070, A(2) and A(4).

Chair Swift provided the following comments:

- The grey sample displayed on the color board submittal would best fit the property.
- The bathroom windows include privacy glass.
- The ADU next door is small and has two windows on the left side. The project would be five feet away from it.
- The project has been sited to one side of the parcel which is a concern.
- She discussed the Design Review and General Plan criteria, requiring evaluation for compatibility with existing development.
- There are options to change the siting to a more central location on the site.
- She cannot approve the project as presented.

Commissioner Fragoso provided the following comments:

- She likes the design.
- It is beautiful but somewhat out of character.
- She is concerned about the huge deck on the side.
- She wondered if some type of level ground could be created at the back.
- She wanted the applicants to shrink the design and set it back a bit.

Mr. Ron Kappe, architect, and Mr. Stephen Altman, owner, made the following comments:

- Moving the project would not be a problem and is not a big deal.
- They might not be able to center it on the site.
- This is a small, constrained site.

- They agreed to a continuance.

Commissioner Feffer provided the following comments:

- He is sympathetic to the comments made by the applicant.
- He shares the concern with respect to the neighbor.
- He would take into consideration the cost and difficulty of moving the project the distance mentioned by the applicant vs. the greater distance mentioned by Commissioner Kelly.
- This is a cleverly designed project on an unusually shaped lot.
- The neighbor's buildings are located on the property line.

M/s, Fragoso/Feffer, motion to continue this application to allow the applicants to work with staff and address the issues of concern including the siting, design, massing, architectural character and charm of the building.

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

The Commission took a 5-minute break at 9:15 p.m.

**4. 229 Tamalpais Road; Application # 23-02  
Request for a Conditional Use Permit to construct a 615 sq. ft. deck onto the north side of the existing single-family residence; Assessor's Parcel # 001-054-22;  
RS-6 Single-Family Residential Zone; Laura Kehrlein, Fredric C. Devine Architects;  
Dan Cardozo, owner; CEQA categorically exempt per Section 15301(a).**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding whether this could be a ministerial item handled by the Planning Department if a way could be figured out to amend the code so that staff could have authority over at least some of the simpler projects that currently require public hearings and discretionary review and approval by the Planning Commission; if there is an enclosed sauna included in the plans.

Chair Swift opened the Public Hearing.

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

- This is a straightforward project with a low level deck in a semi unimproved area of the lot.
- New plans were submitted that eliminated the sauna.
- The adjacent neighbor to the north supports the project.
- They will be using sustainable decking material.
- She asked if Condition #2, pertaining to obtaining approval of the plans by the RVFD, MMWD and RVSD, would apply to this project. Principal Planner Neal stated she would check with the Building Official.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- This project improves the access, livability, and safety of the house.
- This is a straight forward design.
- She likes it.

M/s, Jansen/Fragoso, motion to adopt Resolution No. 2023-02 with the correction of the cover drawing to not include a sauna.

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

Chair Swift stated there is a 10-day appeal period.

## **Minutes**

5. Review and approval of the minutes from the October 27, 2022 and the December 15, 2022 Meeting

M/s, Fragoso/Newton, motion to continue the October 27, 2022 minutes and approve the December 15, 2022 minutes as corrected.

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

## **Planning Director's Report**

Interim Planning Director Woltering reported the Housing Element project is moving forward with a new consulting team. The document will be put out for a 30-day local public review sometime at the end of February or early March, submitted to the Town Council thereafter with comments received and responses to those comments, and then to Housing and Community Development (HCD) for a 90-day public review. It is expected that the document would then be reviewed by the Commission and Council in June. He sent an email regarding the upcoming Planning Commissioners Academy at the end of March. He encouraged the Commissioners to attend.

Commissioner Newton asked about the Commission's role in the Housing Element update. Interim Planning Director Woltering encouraged Commissioners to review and make comments when the local public review draft is released. The Commissioners' comments would be reviewed, responded to, and forwarded on to the Town Council for consideration before the draft Housing Element, the comments, and the responses would be forwarded to HCD.

## **Commissioner Comments and Requests**

Commissioner Newton thanked retired Commissioner Green for his many years of service.

## **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary