

FAIRFAX PLANNING COMMISSION MEETING MINUTES
WOMEN'S CLUB, 46 PARK ROAD
AND VIA TELECONFERENCE
THURSDAY, APRIL 20, 2023

Call to Order/Roll Call:

Chair Swift called the meeting to order at 7:40 p.m. due to lack of a Commission quorum at the 7:00 PM meeting starting time.

Commissioners Present: Philip Feffer
Robert Jansen (arrived at 8:55 PM)
Brett Kelly
Mimi Newton
Cindy Swift (Chair)

Commissioners Absent: Norma Fragoso

Staff Present: Linda Neal, Principal Planner
Kara Spencer, Assistant Planner

APPROVAL OF AGENDA

Chair Swift stated she wanted to move Public Comments before the Consent Calendar and move the Minutes and Commissioner Comments after item #1.

M/s, Newton/Kelly, motion to approve the agenda with the change proposed by the Chair.

AYES: Feffer, Kelly, Newton, Chair Swift

ABSENT: Fragoso, Jansen

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 97 Forrest Avenue; Application #23-09
Request for a Hill Area Residential Development Permit, Design Review, Combined Side-Yard Setback Variance, and a Parking Variance for a 50 percent remodel and two-story addition to a single-family residence; APN #002-192-23; RS-6 Single-Family Zone;
Jay Sherlock, Architect/applicant; Zak Cordisco and Zoe Pearl, owners
CEQA Categorically exempt per Section 15301(e)(1).**

Assistant Planner Spencer presented the staff report. She cited additional Design Review Findings as requested by a Commissioner. She answered questions from the Commission regarding work that was done prior to the Stop Work Order; the fence on top of the carport; the roofing material (shingle vs. metal); Northern Spotted Owl nesting areas; if the new overhead light fixture on the ADU is Dark Sky compliant.

Chair Swift opened the Public Hearing.

Mr. Jay Sherlock, architect, made the following comments:

- The original house floor plan was chopped up and non-symmetrical. Most of the work is intended to clean it up.
- They want to make the house harmonious with the neighborhood, more aesthetically pleasing, and code compliant.
- The house already encroaches on setbacks.
- They are cutting off a portion of the house on the east side, bringing the side setback more into compliance with the current regulations.
- The proposed excavation is the minimum necessary to restore the house and create a functional floor plan.
- The one exterior light on the wall is downlighting and the other two entries are recessed.
- The roof the applicants choose, whether it be asphalt shingles or the metal roof, will be determined by budget constraints. They would prefer the metal roof.
- They could drop down the garage guardrail.
- They are willing to work with the Commission on the tall fences.
- Safety and code compliance is the priority with aesthetics coming in second.

Commissioner Kelly asked Mr. Sherlock how much of what is drawn in the application already exists. Mr. Sherlock stated the main piece is the retaining wall across the back of the property. It has been reduced as much as possible in height. A portion of the back addition has been cleaned up and has a lot of open framing- 40% to 60% of the floor was started. There has been some work done on the entry façade including the steps and the entryway into the ADU. Commissioner Kelly asked if the siding and window modifications on the north side of the house are already complete. Mr. Sherlock stated “yes- some work has been done”. Commissioner Kelly asked if they considered enclosing the stairs. Mr. Sherlock stated the stairway is remaining where the previous stairway existed and that keeping it open is what is keeping it affordable.

Commissioner Feffer asked if they plan to come back to any of the elements in the future with other projects given their current budget constraints. Mr. Sherlock stated that once the house work is completed they plan to start work on the landscaping.

Mr. Zak Cordisco, owner, made the following comments:

- They did pull permits for the stairs and the siding.
- The stairs had rot and water issues.
- The house had three different types of siding- he likes the Hardy product since it is fire proof.

Ms. Amy Flynn made the following comments:

- The house was in disrepair.
- She supports the project.

Mr. Coby Freedman made the following comments:

- He lives across the street from the project.
- The Town’s requirements are onerous and un-called for.
- He supports the project.

Chair Swift closed the Public Hearing.

Commissioner Kelly provided the following comment:

- It is unfortunate that some of the items were completed before review.
- He applauds the applicants for revitalizing the house.
- He understood the desire to replace the windows.

- The open front stair design is an unfortunate aesthetic choice.
- The project will make the neighborhood better.
- He wished the guardrail over the carport was not so foreboding.
- He could support the project.

Commissioner Newton provided the following comment:

- She appreciated the drawings and materials submitted.
- She has no objections to the project.

Commissioner Feffer provided the following comment:

- He is glad they are improving the property.
- He was concerned about the length of the construction process and blocking Forrest Avenue.
- He appreciated the comments from the neighbor.

M/s, Feffer/Newton, motion to adopt the Resolution No. 2023-07 with the additional Design Review Finding indicated in the staff report and the following change to Condition #42: Deletion of all but the first sentence.

AYES: Feffer, Kelly, Newton, Chair Swift

ABSENT: Fragoso, Jansen

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

Commissioner Jansen arrived at the meeting at 8:55 PM.

Minutes

3. Review and approval of the minutes from the March 16, 2023 meeting

M/s, Newton/Kelly, motion to approve the March 16, 2023 minutes as corrected.

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

ABSENT: Fragoso

Planning Director's Report

There was no report.

Commissioner Comments and Requests

Commissioner Newton thanked staff for the great work given the challenging circumstances.

Chair Swift asked about the change in the email list and how residents could sign up for agendas.

2. Encroachment Permits to install at grade battery backup cabinets in the public right-of-way to house emergency back-up battery systems for existing Comcast power sources mounted on existing utility poles in compliance with California Public Utilities Commission regulations requiring communication emergency back-up systems providing 72-hour service emergency service after natural disasters/ weather events. The addresses of the nearest houses to the public rights-of-way where The cabinet installations are proposed are: 8 Wood Lane/12 Wood Lane 10 Madrone Ct., 20 Willow Avenue, 76 Manor Road, 111 Marinda Drive, 414 Bolinas Road/418 Bolinas Road, and 445 Cascade Drive. Applicant, Comcast; CEQA Categorically exempt per Sections 15301(b) and 15302(c).

Commissioner Feffer recused himself from this item due to a professional conflict of interest and left the meeting.

Principle Planner Neal presented the staff report. She answered questions from the Commission regarding the dotted and solid lines on Sheet A.0 and the placement of the cabinets at 445 Cascade Drive; if there is room for sidewalks; if staff received communication from neighbors; how the locations were chosen; the rules for approval; if a postponement was possible; the recommendation for putting a cabinet underground; if a biologist was consulted about the Spotted Owl; if there is an analysis about EMF radiation; encroachments into sidewalks; if there are requirements for improving the right-of-way; if there were other alternatives for assembly; if other communication companies would have similar requests; the Town process for review of the design work suggested by a homeowner.

Chair Swift opened the Public Hearing.

Mr. Brian Bottari and Mr. Billy Glisson, representing Comcast, presented a PowerPoint presentation.

Commissioner Newton asked about the underground vault. Mr. Bottari stated it is not advisable to place the cabinets underground because of the potential for ground water intrusion and ongoing maintenance problems. Commissioner Newton asked if they had information about EMF radiation from these units. Mr. Bottari stated any EMF's are negligible. Commissioner Newton asked if they have any evaluations about potential impacts to the Northern Spotted Owls. Mr. Bottari stated "no". Commissioner Newton asked if there were eleven total battery locations in Town. Mr. Bottari stated "yes". Commissioner Newton asked if the bollards on Willow could be relocated. Mr. Bottari stated "yes".

Commissioner Jansen asked why the box housing the 4-hour battery will not be taken down off the pole. Mr. Glisson stated that in order to relocate the boxes off the poles Comcast would need to reapply for a Utility Permit with PG&E which is a new process. It may also result in the need to increase the cabinets in size to accept the power supply unit.

Commissioner Kelly asked if it was possible to take the box down. Mr. Glisson stated "yes". Commissioner Kelly asked how many residents are served by Comcast. Mr. Bottari stated he did not know and that the information is proprietary and not to be released to the public. Commissioner Kelly asked if the EMS system in Town uses Comcast. Mr. Bottari stated he was not sure. Commissioner Kelly asked about the mechanism with respect to design considerations. Mr. Bottari stated they use "door hangers" and try to accommodate the neighbors.

Chair Swift asked why there was only one cabinet on Bolinas Road. Mr. Bottari stated the power draw for that supply does not require as many batteries as the others. Chair Swift asked if this is based on the number of houses served. Mr. Bottari stated "yes". Chair Swift asked about the four other sites and how the design/battery solution would be different. Mr. Bottari stated the cabinets would not be different- they are looking at different battery technology. Chair Swift asked if there were different distances between the cabinet/slab and the roadway. Mr. Bottari stated they try to go by the standard ADA guidelines- they will always be five feet from PG&E poles. Chair Swift asked if there was on-going testing of the batteries. Mr. Bottari stated "yes". Chair Swift asked if the cabinets need to be within 50 feet of the pole. Mr. Bottari stated there was some flexibility. Chair Swift asked when they would like to start. Mr. Bottari stated as soon as possible. Chair Swift asked about the date of compliance. Mr. Glisson stated it was August of last year.

Commissioner Kelly asked if there were planning for expansion of cabinets and if they would be getting another cabinet application next year. Mr. Bottari stated "no". Commissioner Kelly asked about the size of the battery in the power supply cabinet that would be removed. Mr. Bottari stated the one on the pole is a "steroid car battery".

Chair Swift asked how far the cabinet is from the pole at the Willow Avenue location. Mr. Bottari stated he would guess they are just about maxed out.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- Replacing a 4 hour battery with a 72 hour battery pack was a good thing. This makes the system more resilient.
- Each location has its own “ins and outs”.
- The locations in general are roughly where two properties meet- this seems logical.
- He was concerned about the possible future installation of sidewalks.
- The permits are revocable and if the Town wanted to add a sidewalk then they would need to move the unit.
- All driveways should be shown on the plans.
- He recommended postponing the Willow location.
- How they would add things to the units (planting, fences, etc.) was unclear and the Town needs to come up with some language.

Commissioner Kelly provided the following comments:

- These units are all over the place.
- He suggested an art program to paint the boxes.
- The units should not be located where they would remove parking.
- The driveways should be included on the drawings.
- He is concerned about not having a list of elements that residents could add.
- There should be a requirement for input from neighbors.
- He wants the boxes removed from the poles.

Commissioner Newton provided the following comments:

- She was concerned about more EMFs in areas where there are Spotted Owl nests.
- She was concerned that maybe there should be bollards around the Willow Avenue cabinet because it is such a narrow street and there is so much traffic on it as it is the only access into that neighborhood.
- She agreed with Commissioner Kelly about the boxes.
- Construction should be prohibited during the Spotted Owl nesting period.

Chair Swift provided the following comments:

- She asked if the cabinets could be perpendicular to the road. Mr. Bottari stated “yes”.
- She asked if the Madrone Court site was within a quarter mile of the Spotted Owl nests. Principal Planner Neal stated she verified that the only location with a quarter mile of a nesting site is the one at 445 Cascade Drive.
- The condition regarding Spotted Owl nesting periods should be added to the resolution.
- Notice should be given to neighbors with respect to the aesthetics.
- The Manor and Willow locations should be postponed and discussed again.

Commissioner Newton provided the following comments:

- The Willow and Manor locations should come back to the Commission.
- The boxes on the poles are a visual detriment.
- Perhaps they should go back to the drawing board.

Chair Swift provided the following comments:

- She is comfortable with going forward with the five locations.
- She supported the Spotted Owl provision and discussions with the community.

Commissioner Kelly provided the following comment:

- He supported specifying in the notice that residents are given the opportunity to affect the aesthetic of the boxes with plantings, lattice, etc.

Commissioner Jansen provided the following comments:

- He referred to the Resolution, Condition #6, and suggested the following change: “Modifications...of the Planning Commission *including additional planting or screening*”.
- He suggested the following additional Condition: “Comcast would offer to contact adjacent neighbors to review any additional beautification of the cabinets including plantings, screening, or trellises subject to Town approval”.

Chair Swift provided the following comments:

- She referred to the Resolution and suggested the following changes: 1) On page 2, Condition #1 should refer to a “recorded” copy; 2) On page 2, Condition #7 should read: “... responsibility of Comcast; 3) Deletion of any reference to the Willow and 76 Manor sites.
- She asked the representative if they agreed to the continuation of these two sites.

Mr. Bottari gave the following comments:

- The Commission could impose a Condition of Approval to not take up a parking space for the Manor site. This could be left to the staff’s discretion.
- They will give it their best shot with respect to the Willow site.
- They would be happy to come back next month regarding the two sites.

M/s, Newton/Jansen, motion to continue the application with respect to the Manor and Willow locations to the regular May meeting.

AYES: Jansen, Kelly, Newton, Chair Swift

ABSENT: Fragoso

RECUSED: Feffer

M/s, Newton/Jansen, to adopt Resolution No. 2023-09 with the following changes: 1) The title shall refer to *five* revocable encroachment permits and exclude 20 Willow Avenue and 76 Manor; 2) On page 2, Condition #1 should refer to a “recorded” copy; 3) On page 2, Condition #6, shall include the following: “Modifications...of the Planning Commission *including additional planting or screening*”; 4) The applicant shall provide notice to property owners on either side of each of the locations of an opportunity to work with the applicant on any potential screening or other aesthetic changes subject to Town approval; 5) Inclusion of the normal language prohibiting construction during the Spotted Owl nesting season with respect to 445 Cascade Drive; 6) On page 2, Condition #7 should read: “... responsibility of Comcast.”

AYES: Jansen, Kelly, Newton, Chair Swift

ABSENT: Fragoso

RECUSED: Feffer

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

Planning Director’s Report

There was no report.

Commissioner Comments and Requests

There were none.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:06 p.m.
Respectfully submitted,

Toni DeFrancis,
Recording Secretary