

FAIRFAX PLANNING COMMISSION MEETING MINUTES  
WOMEN'S CLUB, 46 PARK ROAD  
AND VIA TELECONFERENCE  
THURSDAY, MAY 18, 2023

Call to Order/Roll Call:

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

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

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

Chair Swift noted Commissioner Fragoso was attending remotely.

M/s, Newton/Kelly, motion to accept Commissioner Fragoso's attendance remotely.  
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

Commissioner Newton announced she is participating remotely.

### **APPROVAL OF AGENDA**

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

### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

There were no comments.

### **CONSENT CALENDAR**

There were no Consent Calendar items.

### **PRESENTATION OF RESOLUTION OF APPRECIATION TO PHIL GREEN**

Chair Swift read the Resolution.

M/s, Newton/Jansen, motion to adopt the Resolution of Appreciation to Phil Green.  
AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

Former Commissioner Phil Green stated it was a pleasure to serve nine years on the Commission.

### **PUBLIC HEARING ITEMS**

- 1. 20 Willow Avenue and 76 Manor Road; Application #23-11  
Continued consideration of a request for 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. APN #'s 001-235-03 (20 Willow Avenue) and 001-113-08 (76 Manor-cabinet proposed on Acacia Rd.) RD 5.5-7 Zones; Comcast, applicant. CEQA Categorically exempt per Sections 15301(b) and 15302(c).**

Commissioner Feffer recused himself from this item due to a professional conflict of interest. He left the Council Chambers.

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding the driveway locations for 18 and 20 Willow Avenue; the decision by Comcast to move the cabinet on Willow Avenue across the street; an illegal encroachment on Willow Avenue; Encroachment Permit Findings; when staff approval for modifications would be required; who is included in "involved parties"; location of cabinets in relation to the pole box on Plan A0; the service area for the pole and the box.

Chair Swift opened the Public Hearing.

Mr. Brian Bottari and Mr. Billy Glisson, representing Comcast, made the following comments:

- The CPUC mandate is for 72 hours of backup. It does not specify battery.
- They have made some improvements since the launch of the project.
- They have increased some wire sizes.
- They do not need a pole box because the conduits come up underneath and go right into the cabinet.

Commissioner Jansen referred to 18 and 20 Willow Avenue and asked about distance from the cabinet to the driveway. Mr. Glisson stated he did not do the drafting. Principal Planner Neal stated it was at least ten feet for the 18 Willow property. Mr. Bottari stated they would be willing to place the cabinet anywhere between the two driveways.

Chair Swift had a question about the pole box depicted on Sheet A0. Mr. Glisson stated this should be a reference to a water main meter.

Ms. Hailey Mallon made the following comments:

- She did not want the structure to be located in front of 20 Willow.
- It will be an eyesore.
- She does not want to pay for the upkeep of the landscaping.
- She is requesting that other locations be considered.

Mr. Mallon made the following comments:

- He sent a letter to the Commission.
- He wanted to know about the function of a "power box" and why it cannot be moved to another pole.

Chair Swift closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- The reality does not match the drawings.
- The east side of the street has sidewalks.
- Walking on the west side of the street is difficult.
- It is unfortunate that everything has to go on the walkable side of the street.
- This location should be continued.

Commissioner Jansen provided the following comments:

- The application is incomplete and they are wasting their time.
- The plans do not include the driveway locations.
- It is not possible to make a judgement.

Commissioner Kelly provided the following comments:

- He agreed with Commissioner Jansen- it is not possible to evaluate the project.
- The applicants did not provide the requested information.
- The cabinet should move towards the curb.
- It is silly to not get a survey before a decision is made.
- He would like to see an engineering explanation for why they cannot put the box more than 100 feet away.
- A location at 9 Willow Avenue is a “no-brainer”.
- He wants to see documentation about what it would take to move the power supply to the southern pole.
- The public has a right to know where the cabinets will be located.

Commissioner Newton provided the following comments:

- She had a hard time figuring out the driveway locations for 18 and 20 Willow Avenue.
- She appreciated the photographs.
- The cabinet location might need to be moved if they prepare a survey.
- Moving the cabinet in front of 18 Willow seems like a convenient solution.
- There is a lot of uncertainty.

Chair Swift provided the following comments:

- There is a desire by the property owner of 20 Willow to not have the cabinet on her property.
- The cabinet would be located 6 ½ feet from the water main box which would put it totally in front of 18 Willow Avenue.
- She suggested putting the cabinet between the two planter locations.

The Commission discussed continuing the application for this location.

Mr. Brian Bottari and Mr. Billy Glisson, representing Comcast, made the following comments:

- The location is flexible.
- There is a 100 foot radius within which they can put the boxes.
- These issues can be troubleshot in real time.
- They would like a decision tonight.

Chair Swift asked for questions or comments on the 76 Manor Road location.

Principal Planner Neal answered a question from the Commission regarding the possible loss of public parking.

Chair Swift opened the Public Hearing.

There were no comments.

Chair Swift closed the Public Hearing.

Commissioner Kelly provided the following comments:

- There was a previous discussion about adding bollards to protect the box- there are none on the plans.
- He did not see an analysis about the possible loss of parking.

- He did not see a better location.

Mr. Glisson stated he did not remember the discussion about bollards or the loss of parking. Principal Planner Neal stated the Building Department made the recommendation for bollards. There will be a loss of a parking space.

Commissioner Fragoso provided the following comment:

- There are unanswered questions and both locations should be sent to staff for review.

Commissioner Jansen provided the following comments:

- The box is pushed close to the corner and the width of that strip of land is 5'6". It is not a parking space.
- The proposed location of the box, from a parking standpoint, is the best location.

Commissioner Newton provided the following comment:

- The resolution should refer to a "pair of cabinets".

Chair Swift provided the following comment:

- Placing the box perpendicular to the road could provide more room for parking and save a foot or two.

M/s, Newton/Jansen, motion to adopt the Resolution No. 2023-11 with the following changes: 1) The resolution should refer to a "pair of cabinets"; 2) Condition #4, shall read: "The pair of cabinets along the 20 Willow Avenue frontage shall be determined by the Building Official and Public Works Director in consultation with the applicant and with the guidance from the Planning Commission as to be located between two water meters in front of 20 Willow and 18 Willow and as close to the curb as possible and that upon a decision as to the final location of the pair of cabinets the residents of 20 Willow and 18 Willow would be advised of that decision and their rights to appeal it and after that decision has been made the applicant must also include landscaping and/or other options to ensure the location is aesthetically pleasing to both the neighbors at 20 Willow and 18 Willow or if an agreement cannot be reached as to that landscaping or other option by those neighbors the final design of those enhancements will be approved by the Planning Director or the Public Works Director; 3) The reference to Willow Avenue shall be "18-20 Willow Avenue".

AYES: Fragoso, Jansen, Newton, Chair Swift

NOES: Kelly

RECUSED: Feffer

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

The Commission took a 5-minute break.

Commissioner Feffer returned to the dais.

**2. 54 and 56 Bolinas Road; Application #23-12  
Request for a Design Review Permit for an exterior color change to the existing commercial building front façade; AP #002-115-16; CC (Central Commercial) Zone  
Doug Yee, owner, Holly Brandborg, Emma Sheldon, and Padma Yoga Studio,  
applicants; proposed work does not constitute a project under CEQA**

Principal Planner Neal presented the staff report. She answered questions from the Commission regarding the standards for letter sizes and illumination; the address on the building.

Chair Swift opened the Public Hearing.

Ms. Susan Brandborg made the following comments:

- She asked if all stores need to have numbers posted.
- The applicants want to paint the building white to distinguish it from the other buildings.

Chair Swift closed the Public Hearing.

Chair Swift provided the following comments:

- She was curious about the Fire Department requirements for numbering for commercial properties.
- The hanging sign they have makes it hard for the business to be seen from the road. It is a black sign with small white lettering and is hard to see.

Commissioner Jansen provided the following comment:

- Fresh paint is always nice- do it!

Commissioner Kelly provided the following comments:

- It looks great and will be an improvement to the streetscape.
- He supports the application.

Commissioner Fragoso provided the following comments:

- She understood the rationale for painting the building white but it would not solve the problem of identifying what business is where.
- A more effective strategy might be the installation of blade signs.

M/s, Jansen/Feffer, motion to adopt the Resolution No. 2023-10 with the following change: 1) The following sentence shall be added to Condition #1: "The size of the lettering and any lighting requirements must be acceptable to the other Fairfax agencies".

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

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

### **3. 142 Tamalpais Road; Application #23-14**

**Request for a Conditional Use Permit and Variance to construct a 213 sq. ft. deck onto the north side of the existing single-family residence; AP #001-121-25; RS 6, Single Family Zone; Arrow Deck and Construction, applicant John Nolan, owner CEQA categorically exempt per section 15301(a)**

Assistant Planner Spencer presented the staff report. She noted an error in the plans and suggested an amendment to the resolution regarding the fence under the deck. She answered questions from the Commission regarding the deck off of bedroom #2; if the right of way path/trail continues; who would maintain the stone stairway that is the access to the public path; if there is access to the public pathway other than using the stone steps; recording of the revocable Encroachment Permit; if the concrete steps were covered by an Encroachment Permit.

Chair Swift opened the Public Hearing.

Mr. John Nolan, applicant/owner, made the following comments:

- They are trying to build a small deck on the front of the house.
- They are trying to bring the house up to code.
- They are happy to keep the pathway open.

Commissioner Jansen referred to the additional small stair up the hill to the left and asked- Where is that going? Mr. Nolan stated it leads to the back yard.

Chair Swift closed the Public Hearing.

Commissioner Jansen provided the following comments:

- The location of the deck is not visible from Tamalpais and the corner that clips the setback line is small.
- It would be silly to pull the deck back because of that tiny corner.
- The combined setback is exceeded on the other side of the deck but that is due to the house.
- Trying to get the deck to comply would not bring about a useful result. It would look odd.
- The way the deck is attached to the house is logical and would look good.
- Keeping the public trail open is very important.
- He could approve the application.

Commissioner Newton provided the following comment:

- Public access to that trail needs to be preserved.

Commissioner Kelly provided the following comments:

- The stone stairs replaced wooden stairs and there was no public access.
- The owner rebuilt the stairs.
- This trail is used a lot by residents.

Commissioner Feffer provided the following comments:

- He suggested a Condition of Approval prohibiting blocking public access to the remainder of the trail.
- They should be silent with respect to the stone steps.

M/s, Jansen/Newton, motion to adopt the Resolution No. 2023-12 with the following changes: 1) On page 1, the first Whereas is misspelled; 2) The addition of Condition #12 stating that the property is within ¼ mile of a Norther Spotted Owl nest and construction is prohibited from February 1<sup>st</sup> through July 31<sup>st</sup>; 3) The addition of Condition #13: The existing access to the public right-of-way on the west side of the property must be maintained; 4) The addition of Condition #14: The Revocable Encroachment Permit shall be recorded at the County and a copy shall be provided to the Town. AYES: Feffer, Fragoso, Jansen, Kelly, Newton, Chair Swift

Chair Swift stated there is a 10-day appeal period

#### **4. 74 Woodland Road; Application #23-15**

**Request for a Conditional Use Permit, Variances, and Revocable Encroachment Permit for the repair and reinforcement of existing retaining walls; construction of new retaining walls, entry stairs, concrete driveway, deck with two paved parking spaces below; and installation of new parking pad for four parking spaces; AP #003-082-04; Residential Single Family Zone RS-6; Briar Horn, applicant; Haley and Briar Horn, owners CEQA categorically exempt per Section 15301(d) and 15303(d)**

Assistant Planner Spencer presented the staff report. She did not receive any comments from the Fire Department of the Sanitary District. She answered questions from the Commission regarding whether the sewer pump on Sheet A.101 is existing or part of the application; if the deck would be accessible from inside the house and if there is any exterior lighting.

Chair Swift opened the Public Hearing.

Mr. Horn, applicant/owner, made the following comments:

- There is access to the deck through double doors. There is lighting on the outside.
- The replacement deck will be smaller in size.

Chair Swift closed the Public Hearing.

M/s, Jansen/Newton, motion to adopt the Resolution No. 2023-13 with the following changes: 1) The addition of Condition #14: The Revocable Encroachment Permit shall be recorded at the County and a copy shall be provided to the Town; 2) Acknowledgement that there were no comments from the Fire Department, Water District, or Sanitary District.

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

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

### **Discussion Items**

There were no Discussion Items

### **Minutes**

3. Review and approval of the minutes from the April 20, 2023 meeting

M/s, Newton/Feffer, motion to approve the April 20, 2023 minutes as corrected.

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

ABSTAIN: Fragoso

### **Commissioner Comments and Requests**

There were no comments.

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

There was no report.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:30 p.m.  
Respectfully submitted,

Toni DeFrancis,  
Recording Secretary