

**Meeting Minutes**  
**Fairfax Planning Commission**  
**November 15, 2007**  
*(Electronic Copy available)*

**CALL TO ORDER**

Chair Meigs called the meeting to order at 7:30 PM

**ROLL CALL**

**Commissioners Present:** Barbara Petty  
Peter Lacques  
Brannon Ketcham  
Shelley Commissioner Hamilton  
Chair Pamela Meigs

**Commissioners Absent:** William Madsen  
Alec Hoffman

**Staff Members Present:** Director Welsh, Director of Planning and Building Services  
Linda Neal, Senior Planner  
Susan Waters, Administrative Assistant  
Amy Dunnigan, Minutes Clerk

**APPROVAL OF AGENDA**

M/S, Ketcham-Commissioner Hamilton, motioned to approve the agenda as submitted.

Ayes: All

**APPROVAL OF MINUTES**

M/S, Meigs-Ketcham, motioned to move the approval of the minutes until after the public hearing items.

Ayes: All

**PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

There were no public comments on non-agenda items.

**COMMISSIONER COMMENTS AND REQUESTS**

Director Welsh discussed that Jeff Baird, Housing Consultant and resident, would voluntarily review the housing element and the State's letter and had offered to provide insights into how to get the housing element approved.

Commissioner Lacques asked the Director to provide the Commission with the volunteer's resume.

Chair Meigs asked staff what was occurring with the draft Tree Ordinance.

Director Welsh informed the Commission that she had forwarded the Draft the police department for comments and had not heard back. She will forward it to the Fire Department also.

Chair Meigs stated that she did not want the Tree Ordinance to get lost in the shuffle and stated that she would call Cynthia Powell, staff person for the tree committee, to see when she might have her comments back to staff.

Chair Meigs wanted to discuss with the Mayor and maybe the Town Attorney whether it is okay to use a volunteer in this capacity. Chair Meigs also expressed concern that the new Tree ordinance seems to have been left off the agenda and is not moving forward. Chair Meigs stated she would contact Cynthia Powell at Fairfax Police Department to make sure the tree ordinance was being reviewed, so she could update the Commission.

## **CONSENT CALENDAR**

### **66 Redwood Road; Application # 07-47**

**Request for an encroachment permit and a side yard setback variance to construct a 234sf, one-car car deck; Assessor's Parcel No.001-025-15; Residential Single-family RS 6 Zone; Gary Millar, architect; Frank Depace, owner; CEQA categorically exempt per § 15303(e) and 15305(a) and (b).**

M/S, Meigs-Petty, motioned to approve consent calendar.

Ayes: all

## **PUBLIC HEARING ITEMS**

Chair Meigs opened the public hearing at 7:50 PM.

### **141 Bolinas Road; Application # 07-48**

**Request for a Use Permit and Variance from the Parking Regulations to operate a retail/educational business from an existing commercial structure; Assessor's Parcel No. 002-104-04; Central Commercial CC Zone; Pam Hartwell-Herrero, Sustainable Fairfax, applicant; Naaim Karkabi and Rebekah Collins, owners; CEQA categorically exempt, § 15301(a)**

Senior Planner Neal gave the staff report.

Pam Hartwell, the applicant representing Sustainable Fairfax and resident of 17 Westbrae Drive, introduced herself and Rebekah Collins, the owner of the building.

Commissioner Ketcham verified with the applicant that they have no plans to have large sustainable technology demonstrations on the site. He used the example of school field trips and/or busloads of visitors.

Ms. Hartwell assured the Commission that Sustainable has no plans for very large groups visiting the site. She stated that she has a good relationship with the pediatrics office next door and everyday parking is not a problem. She also encourages people coming to the center to bicycle and the Bicycle Coalition donated a very large bicycle rack which they keep in the back yard and bring out front when they hold seminars. The maximum number of people who have attended an evening event is 30 which was about the largest group that could fit in the space.

Board member Ketcham asked if the business did outreach off-site.

Ms. Hartwell stated they've had a booth at the Farmers' Market and EcoFest as well as field trips.

Commissioner Hamilton asked staff to clarify how the complaint process would work.

Senior Planner Neal stated that the complaint process was modeled after the Humane Society's process. That process requires that 3 unrelated people from three different addresses must complain before staff will notice the Use Permit for a hearing in front of the Commission for either modification or revocation.

M/S, Hamilton-Ketcham, motioned to approve application 07-48 for a Use Permit and Parking Variance, based on the findings and subject to the conditions contained in the staff report.

AYES: All

Chair Meigs advised the applicant and the audience that any decision of the Planning Commission can be appealed within 10 days of the Commission taking action on any project.

## **APPROVAL OF THE MINUTES**

### September 20, 2007 Minutes

Chair Meigs stated that she had contacted Director Welsh about these minutes because when she tried to review the version with the strike-outs and with Commissioner Hamilton's comments on the side of the text it was confusing. Chair Meigs requested that the comments not be included in the future.

Commissioner Lacques felt that such detailed comments in conjunction with the minutes were unnecessary.

Director Welsh advised the Commission that if all the comments had been included separately an additional 16 pages would have had to been included in the packet. She advised that in the future if a Commissioner has comments they could e-mail one page referencing the requested changes along with the page number of the location in the minutes where the change should occur.

Commissioner Hamilton thought that there was a way to print out the minutes without showing the comments and that the comments could be printed separately.

Chair Meigs acknowledged that the September 20<sup>th</sup> minutes were lacking and informed Commissioner Hamilton that she appreciated the time and effort she had spent on them. She went on to state that she and other Commissioners hope to move to action minutes.

Director Welsh stated the changes that were made were changes that had been provided before.

Director Welsh stated that she had cut and pasted the conditions and on pages 13 and 14 she added those conditions because of Commissioner Hamilton's comment is a good one to eliminate those conditions from the text and put the motion to approve the project above that and place those conditions as a footnote to the motion. The three substantive changes she hears the Commission asking for are as follows:

Approval of 205 Scenic with the motion as described above.

Removal of the encroachment permit because it is no longer required.

Inclusion of the time that Commissioner Madsen's left meeting.

The other comments were clarifications and not changes and in her opinion, they should be easy to accept.

Commissioner Lacques clarified that Commission Madsen voted, "no" indicating that he was not in favor of requiring all applicants to wrap their story poles in the future and then he walked out.

Commissioner Ketcham questioned whether or not track changes should be shown in the minutes and the Commission decided that was something they would decide in the future.

Chair Meigs asked to staff to include the time that Commissioner Madsen left right after Number 7, but before Item 8.

M/S, Meigs-Lacques moved to approve the September 20, 2007 minutes with the above referenced changes.

AYES: all

#### October 4 Workshop Minutes

M/S, Ketcham-Lacques, motioned to continued the October 4, 2007 workshop minutes to the next workshop meeting and to approve workshop minutes at the workshop meetings in the future.

Ayes: All

#### October 18 Minutes

Commissioner Hamilton wanted to clarify Page 2, at the middle paragraph that Director Welsh “may need to revise the municipal code and bring the proposed revision to the Town Council to review and discuss”. Commissioner Hamilton agreed to just omit the word “may”.

Director Welsh stated the attorney said it was okay to go to action minutes. She indicated that staff is currently in the process of working with the minutes clerks towards only providing action minutes.

Chair Meigs stated right after 5, she gaveled Commissioner Madsen twice because she felt he was uncivil. On the third time she was more curt and cut him off.

Commissioner Hamilton stated that on page 9, 7<sup>th</sup> paragraph, there were two, “third-party” estimates required and that the building inspector was to approve the amount based on two “third-party” costs submitted by the applicants.

M/S, Meigs-Commissioner Hamilton motioned to approve Oct 18 minutes.

AYES: All

ACTION: Bring back Workshop minutes to the Workshop for approval at that time.

### **DRAFT ORDINANCES**

#### **4. Discussion/consideration of the Draft Mixed Use Overlay Zone**

Director Welsh said Commissioner Hoffman stated he was trying to set up a time for Leelee Thomas (Affordable Housing Worker for the County) to come and speak to Commission. It was decided that December 6 could be a conflict due to the Chamber of Commerce Christmas Dinner. Chair Meigs proposed to ask the Council to have the joint meeting and have everyone present. December 20 would be the next Thursday meeting. Chair Meigs requested an email be sent to ask who would be available and to decide upon a date for the joint meeting.

Commissioner Hamilton asked if Mixed Use versus Affordable Housing should be two separate ordinances and requested Mr. Kenning's opinion. Mr. Kenning, the Town's consultant, stated that inclusionary housing was another aspect whether or not it was affordable. Kenning stated that the General Plan is the guiding document for the Town and everything else, the ordinances, were tools to implement the General Plan. If the Housing Element was weak, there needed to be an ordinance to back it up. If it was a strong Housing Element, no ordinance was needed. Mr. Kennings also stated that a case-by-case basis for reviewing projects was probably a smarter way to maintain control and encourage creativity for smaller towns such as Fairfax and Mill Valley. Using an inclusionary ordinance limits the creativity in a small town.

Director Welsh said that some of the examples Commissioner Hamilton had provided the Commission with were for much larger areas and possibly not best-suited to Fairfax. It is also a problem that the Affordable Housing Ordinance implied that there was significant ongoing development in Fairfax and there had not been a subdivision approved in 20 some years. She did not want to rule out that there would not be an inclusionary ordinance at some point.

Commissioner Hamilton felt that Commission was attempting to fold in the Mixed Use Overlay Zone into Affordable Housing and it insinuated that Fairfax had somebody in place to create this type of ordinance. Director Welsh stated it gave an example of another municipality where a case-by-case basis was used and it could be accepted or rejected at that time. As far as monitoring possibly four affordable housing units, it would be difficult. Director Welsh informed the Commission that she had asked Mr. Baird what the likelihood was that Marin County would take over the management of Fairfax's affordable housing units and he stated that it would not be possible because the County can hardly handle monitoring their own affordable units.

Chair Meigs asked Mr. Kennings if the language needed to be reinforced in the section that was approved by the Town but that had not yet been approved by the state. Mr. Kennings said that comments received from Sacramento were regarding some sort of density issue in the town center and the fact that the required parking and building height restrictions limited an increase in density.

Commissioner Hamilton questioned the percentage of affordable housing used in the Mixed Use Overlay Ordinance.

Director Welsh said that the Commission in the past had made clear to her that there must be a benefit for the Town for a project using the Mixed Use Overlay Ordinance and the Commissioner's had agreed that the benefit would be obtaining affordable housing units to meet ABAG's requirements. The draft includes a fee waiver incentive if 33% of the units are affordable.

Mr. Kennings gave some history on Marin's struggle to provide the affordable housing required by ABAG. He said that the discussion over the years had been to try to create

incentives to get developers to voluntarily provide affordable housing. Early on the County hired a consultant to put together a workbook for the cities in Marin to use to create their Housing Elements in the hope that the various elements would get approved by the State. The County and Cities had argued with Sacramento that because of the high cost of land in Marin, \$300 to \$400 per square foot, it was not feasible to provide affordable housing. If the town owned a piece of land and a developer contributed the rest a project might be able to include affordable units. Mr. Kenning said that the Town really needs to work to try to find incentives.

Commissioner Ketcham proposed to reduce rates to promote Affordable Housing and said a lot of time was spent on deciding the percentage of affordable housing needed and the Mixed Use Overlay Ordinance could have been achieved without deciding upon a percentage.

Commissioner Lacques questioned the wisdom of opening Fairfax's commercial district to housing unless the plan includes a way to obtain a certain amount of Affordable Housing. He felt that Fairfax may not be able to come with adequate incentives to make a developer want to build Affordable Housing. Fairfax did not have enough land for there to be large enough bonuses.

Commissioner Petty said one way to ensure that there was Affordable Housing was to limit the size of the units.

**STAFF REPORT SUBMITTED ISSUE #3 FOR AFFORDABILITY:**

This was deferred to next meeting since the Commission agreed to have someone from the County to come speak.

**Issue #9 BICYCLE PARKING REQUIREMENTS:**

Director Welsh provided examples of the Berkeley ordinance and Sacramento County's: Up to 10% of car parking was replaced with bike parking in Berkeley. Sacramento was one auto per 3 bike spaces, so up to 2% for bike spaces. She indicated that Councilmember Tremaine had the idea of limiting the number of registered vehicles for someone renting an affordable unit to one.

Chair Meigs felt that one vehicle per dwelling could not be enforced and pointed out that Berkeley and Sacramento were bigger communities.

Commissioner Lacques said because Fairfax was much smaller than Berkeley that Fairfax could substitute bicycles for cars. Commissioner Lacques felt that to limit the number of registered cars per residence would be totally unenforceable and that covered parking at residences would greatly encourage people who lived there to ride their bicycles.

Commissioner Ketcham said that one incentive for affordable units would be to provide a bike space not in lieu of vehicle parking but in addition to vehicle parking. Berkeley had 1 per 2000sq of commercial in Berkeley. Maybe 1 per 1000sq or 500sq would be more realistic for Fairfax.

Commissioner Petty agreed on residential bicycle parking and that the town has historically provided bicycle parking.

Commissioner Ketcham agreed that a rack outside of each door would be difficult for pedestrians, but he looked at the commercial zone and they were placed outside nearly every door. He also noted that the rack often is not full of bikes which could be a problem if you can't get the residents to ride instead of drive.

Commissioner Hamilton asked if anyone had any ideas for other ways to provide incentives for additional bike parking. She suggested and the rest of the Commission agreed that the draft be amended to "Bicycle parking shall be provided. Separate bicycle parking shall be provided for residential and commercial spaces. One communal enclosed space per residential unit and one public access space for each 1,000 square feet of commercial or per each commercial unit under 1,000 square feet."

M/S, Ketcham-Hamilton, moved to approve the amended text.

AYES: All

Commissioner Hamilton reminded the rest of the Commission that the priority with the ordinance is to obtain affordable housing and while bike parking can be included, it should not become the priority.

**(25)What ratio of commercial and residential use will be required for each project?**

Director Welsh stated that she felt that Albertson's parking is very different from the nursery parking.

Commissioner Petty stated that project should include at least 50% commercial, but that it could be reviewed by the Commission to have a larger percentage as a variance request.

Commissioner Ketcham thought that percentage was 50/50 unless variance was requested by the Commission and that it allowed flexibility as well as a goal. He felt the ordinance could help the Town gain residential use through same wording.

Commissioner Hamilton concurred with both and 50% of the total square feet of project was confirmed.

Commissioner Lacques said he would like to see some flexibility, but agreed that a standard was needed or the Town would end up with all residential.

Chair Meigs felt commercialism was suffering and did not want to see more residences in town and commercial spaces only enhance the downtown.

Commissioner Ketcham stated that projects using the Mixed Use Ordinance would be governed by whatever the economic driver was at that time. If downtown was someday booming commercially, then it would be redeveloped to reflect that.

Director Welsh reminded the Commission that there was supposed to be vitality downtown and the Mixed Use Overlay was supposed to be a good thing.

Commissioner Hamilton felt that the town provide incentives for developer to use the Mixed Use Ordinance but it should not be mandated.

Commissioner Petty felt that the majority of builders wanted to build residences and did not see it as an issue.

Mr. Kennings used Strawberry Village in Mill Valley as an example of what can be done with mixed use development. The proposal included having residences above commercial spaces. Mr. Kennings stated the Town should appease Sacramento and get the Overlay done and that dwelling on the minutia was not serving Town well. The fact that the Mixed Use Ordinance encourages good design and encouraged bicycle parking was a very good start.

M/S, Ketcham-Lacques motioned the wording “The Mixed Use Project shall include a minimum of 50% of the total square feet as commercial unless a variance is granted by the Commission to alter this percentage” be adopted.

AYES: All  
Noes: None

**(21) Should the MX zone allow residential uses on the first floor?**

There were questions regarding whether or not the streetscape would be residential at all since the guidelines would not allow it.

Commissioner Petty stated that residences should only be on the second floor unless a variance is granted by the Commission.

Commissioner Lacques stated the Commission should adopt a language that mirrors the language used in the Housing Element to make the two documents consistent.

Mr. Kenning commented that all language in the Housing Element had already been approved by Sacramento with the exceptions of the few items questioned by the state so using the same language is a good idea. The Commission should consider leaving well enough along and not tinkering with what the State has already accepted.

ACTION: Chair Meigs stated she would pull a couple of Commission members to review Housing Element and Matrix at a later time.

M/S, Hamilton-Lacques motioned that the ordinance adopt the language that was in the Housing Element.

AYES: All  
NOES: None

ACTION #1: Director Welsh shall e-mail the CH portion of the Housing Element to the Commission and make copies for the Commission of the Housing Element in its entirety. The revised Housing Element must be approved once it is complete.

ACTION #2: Mr. Kennings would locate a copy of what was approved by the HCD and where they questioned how the 20 dwellings per acre would be achieved with all of the parking around each space and the limit of 28.5 feet.

M/S, Meigs-Lacques motioned to adjourn.

AYES: All  
NOES: none

The meeting was adjourned at 9:41 PM.

Respectfully submitted,

Amy Dunnigan  
Minutes Clerk