

Town of Fairfax  
Planning Commission Workshop  
May 1, 2008  
Fairfax Women's Club, 46 Park Road

CALL TO ORDER 7:31 pm

ROLL CALL:

Board members present: Chair, Pam Meigs  
Terry Goyan  
Shelby LaMotte  
Brannon Ketcham  
Alec Hoffmann  
Peter Lacques  
Shelly Hamilton (arrived 7:38 pm)

Staff present: Ann Welsh, Planning Director  
Larry Kennings, Planning Consultant  
Amy Dunnigan, Minutes Clerk

APPROVAL OF AGENDA

M/S LaMotte-Hoffmann motioned to approve the agenda.  
AYES: All (6)

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

No public comments.

APPROVAL OF THE MINUTES

Commissioner Lacques recommended the following revisions for the April 3, 2008 Workshop minutes: Page 3 half way down, sentence ending in anything over 1500 sf change "considerable" to "sufficient". Two sentences down "If it could not be done at market rate, he felt" substitute "building at the" with "that increased..." Next sentence: "There were a lot of projects built completely with subsidies and he did not think 20% was enough" Replace "enough" with "too much." Next sentence, remove "have to look at subsidies in order to get that accomplished" and replace with "be in effect, subsidizing the builder." The next sentence, change period to a comma and add additional text. "It would be a subsidy for the builder to allow such high density, without also requiring a higher percentage of affordable housing." Page 4, second paragraph, "acres" should be changed to "stories". Half way down, same paragraph: after "Commissioner Lacques said he would support 30%", add "as a compromise."

Commissioner Ketcham recommended adding after all minutes taken:

\*These are summary minutes. A recorded copy is available.

Upon arrival, Commissioner Hamilton abstained from the approval of the minutes as she was not present at the April 3, 2008 Workshop meeting.

M/S Ketcham-Lacques moved to approve minutes from the April 3, 2008 Workshop as amended.

AYES: Chair Meigs, LaMotte, Ketcham, Lacques (4)

ABSTAINED: Commissioners Goyan, Hoffman, Hamilton abstained.

## COMMISSIONER COMMENTS AND REQUESTS

Commissioner Ketcham provided a brief overview of the most recent FAR meeting. Commissioner Ketcham advised there had been 2 meetings thus far to discuss the FAR. The percentage of FAR may not change, but the definition of height may be revised. Height was defined as being straight down from highest point of a building, but if there was a slope, the height could be different. Commissioner Ketcham did not feel FAR would be resolved in the next few months, but possibly 6 months. It was discussed that many towns were changing their FARS and the possibility of expanding what constitutes floor area. 159 Forrest was the home in Fairfax that brought up the question of FAR.

\*7:46pm

Chair Meigs asked about defining 50% remodel and if it was returning to the Commission. Planning Director Welsh advised that Senior Planner Neal was working on a draft resolution for the Ordinance defining/articulating the 50% remodel.

## REVIEW OF DRAFT ORDINANCES

Continued discussion/consideration of the following of the Draft Mixed Use Overlay Ordinance.

Planning Director Welsh joined the sub-committee one week prior at the request of the sub-committee to start a Rationale. Some of the information was pulled out of the Matrix, but not all of the Matrix's information had gone into the Ordinance. Chair Meigs said that language was placed into the Rationale for Town Council to see how items were decided.

Commissioner Hoffmann discussed that it would be nice to provide Town Council with all of the drafts so Town Council could see how and why certain decisions were made.

Chair Meigs advised with the help of Consultant Kennings, they received the Rationale from Planning Director Welsh and it was grouped together. When it went to Town Council, the Commission decided they wanted Town Council to see in each section how decisions were made and pulled it all together. The State letter and housing element were discussed and Consultant Kennings did a great job at making it much clearer.

The Rationale was what had been put together for the Draft Ordinance and the Commission decided the following was needed:

- 1) Add letter from Town Attorney
- 2) From Planning Director Welsh, a summary or explanation of the law from the State explaining minimum or maximum density.
- 3) Planning Director Welsh would discuss mitigation issues and negative declaration with Town Attorney.

Chair Meigs felt that an addendum to the Rationale could be done with the existing information since the Town Council had given the Commission a deadline. Commissioner Hamilton advised that judiciary process was necessary according to Town Attorney at the past Town Council Meeting. The initial study was a CEQA study and items had moved forward in the past without studies, but the Town Council felt it should be a mitigated negative declaration.

Commissioner Hoffmann felt if the final draft pending approval of CEQA could be moved forward without the Commission reviewing the CEQA process, he was fine with it. Commissioner Hamilton said similar.

Commissioner Goyan agreed with Commissioner Hamilton that we provide Town Council with the draft without the approval of CEQA as the draft is going to change once the Town Council went through it.

Commissioner LaMotte said if there was going to be a procedural problem, the Commission should provide more information to the Town Council, but she did not want the Commission to hold the draft longer than after the May 15, 2008.

Commissioner Ketcham said the number of potential units really had not changed and to recommend a mitigated negative declaration, there would need to be mitigations and then incorporate those mitigations. Air quality, noise, and traffic study were all tied to the traffic study and not seeing the study, it was hard to know. Because the Commission limited parking, he thought it may make sense to say that was the mitigation and also the high traffic area. The housing element was what sets the density. Planning Director Welsh advised that there had not been a traffic analysis at the time.

Commissioner Lacques felt changing the zoning was a project under CEQA, so it probably did require an initial study than a checklist. If the attorney was saying that a consultant needed to be brought in, he felt the attorney's recommendations should be followed. He did not feel that the Commission should "short circuit" the process and to follow the attorney's advice. Commissioner Lacques said he would like to see the attorney's letter.

Commissioner Ketcham felt there was pressure from the top and a legal opinion was needed. The Mayor, Chair Meigs and Planning Director Welsh would meet and see what was recommended.

Chair Meigs talked to different Council members and she felt that there needed to be a bigger public process and that the Commission had done the work and felt it needed to be moved on.

Consultant Kennings said it was not a project yet and had no standing and could be recommended to Council as the draft and Town Council make it a law. He recommended bundling all documentation and only one CEQA document and hand it to Town Council. It should be recommended to Council as the Planning Commission's Draft and know that some of the numbers may change and to do an initial study with a draft only did not make a lot of sense. Consultant Kennings recommended taking the CEQA document and answering yes and no for a quick overview, but there could be more issues.

Planning Director Welsh would ask Attorney Jim Karpiak as people in the past were making decisions without knowing all of the environmental impacts. Planning Director Welsh advised the checklist was approximately 20 pages long.

Commissioner Hoffmann proposed that the Commission talk to whomever was making the decisions and see if they said the Commission would have to review CEQA prior to turning in the draft.

Chair Meigs felt it should be turned to the Commission.

Planning Director Welsh advised the Town Attorney did recommend a mitigated negative declaration.

Chair Meigs requested to make a motion to have the sub-committee meet with Town attorney and Mayor Michael Rock to make sure everyone was on the same page. Commissioner Hoffmann said to ask Attorney Karpiak if the Commission was following the proper procedure, so when it goes to Town Council nobody would say that the Commission did not follow the proper procedure. Commissioner Hamilton requested to address the Town Attorney and have the Mayor copied.

Consultant Kennings said to give the Planning Commission's Draft Recommendation to Town Council and let them decide.

Planning Director Welsh felt it was a major change to Fairfax and wanted to be sure the proper procedures were being followed.

\*8:34pm

M/S Hamilton-Goyan motioned that Staff be directed to send an inquiry to the Town Attorney requesting clarification whether the draft can be sent to Town Council without

an initial study and specify CEQA procedures (if any) and that the sub-committee and Mayor and Town Manager be copied on it both outbound and inbound.

Commissioner Lacques requested a friendly amendment to the CEQA procedures portion of the motion.

AYES: (6)

OPPOSED: Chair Meigs (1)

M/S Lacques-LaMotte: In the event that the Town Attorney stated that an initial study was required that Staff proceed prior to the next meeting.

AYES: (5)

OPPOSED: (2, Meigs and Goyan)

\*8:41 pm

Draft Mixed Use Overlay Ordinance

PURPOSE 17.097.010

Commissioner Ketcham stated it was a problem because the document was a Resolution and not an Ordinance, so it did not read as a Draft.

Commissioner Hoffmann said to forward on the Draft Ordinance without the Resolution since it was up to the Town Council to make the Resolution. Delete Resolution (the entire first page) and place it on reserve.

\*8:45 pm

§ 17.097.030 DEFINITIONS:

Commissioner Lacques said that there was a gaping issue of defining affordable housing. Commissioner Hamilton said affordable housing could be referenced “as defined in the Housing Element”.

§ 17.097.020 Establishment of an Overlay Zone

Commissioner Hamilton questioned if (D) at top of page 3 for major renovation was explained. Commissioner Hoffmann requested to revise the first sentence read “A Design Review Board hearing is required for all Mixed-Use Projects in the development subject to the Mixed Use Overlay Zone. Page 3 Commissioner Hoffmann requested if amenable: Shared, tandem, elevator/lift “or underground parking” are encouraged. Commissioner Hamilton suggested including it in the Rationale in the Parking section since it was so controversial.

§ 17.097.050 DEVELOPMENT STANDARDS

Page 4, (C), part (2) Commissioner Lacques requested the following revision: If a project for parcels in the Fair Anselm/Albertsons site (Assessors Parcel Numbers) has a minimum of 40% affordable housing, it qualifies for a height bonus of a third story with a total height not to exceed 35 feet. Commissioner Hamilton seconded it.

\*8:58 pm

Page 5, (D), Remove “maintained with drought tolerant vegetation” and change the comma to a period after “landscape plan” and remove “subject to Design Review”.

Page 5, (E) Parking, (4), Revise “shall” to “may” in sentence Overflow residential parking **may** be shared with commercial uses, where feasible.

Page 5, (E) Parking, (5) Revise to “Parking areas incorporating solar power opportunities are encouraged. “

Page 5, (E) Parking, (7) Commissioner Ketcham asked if there were covered parking requirements. Planning Director Welsh said it was per use, not per zone. The Commission agreed to change “shall” to “may” for sentence “Covered parking requirements **may** be reduced when an acceptable alternative design is proposed.”

Page 5, (F) Front Setback, (1) Ketcham recommended “Setbacks for Mixed-Use Projects” instead of for “new construction”.

\*9:15 pm

Page 6 (F) Front Setback, (H) Commissioner Hoffmann suggested changing “1,250 square feet” to “a maximum of 1,500 square feet”.

Add to DEVELOPMENT STANDARDS on Page 6

(J) Mixed-Use Projects shall incorporate Green design and construction practices in order to conserve energy and natural resources and provide a healthy living environment.

§ 17.097.060 FINDINGS FOR VARIANCE (remove IN MIXED-USE OVERLAY ZONE):

After first paragraph “in addition to the findings in 17.028 that each of the following findings must be met.”

Remove the comma and “or” after both (A) and (B) at end and add a period.

(D) and (E) needed separation as it was one combined in one paragraph.

§ 17.097.070 CONDITIONS

Page 6, (A), Commissioner Hoffmann said to remove the word “Reasonable”.

Page 6, (D), After “shall be eligible for fast-track processing” remove “and reduce the time to provide the needed units.”

Page 7, Section 3, Change the word Exhibit to Appendix. “The Mixed Use Overlay Zone shall be applied to properties shown on Appendix “A””.

Page 7, Section 4, Remove everything after Section 4.

Rationale for Draft Mixed-Use Overlay Ordinance  
Last revision 4/29/8 @ 3:39 PM Document

Middle of first paragraph, add “density” after “The most significant issues discussed were:”

Second paragraph, first sentence, before prepared by staff, add: “raised by Commissioners”.

#### § 17.97.050 DEVELOPMENT STANDARDS

Page 2, Provide rationale for why Fair-Anselm was the most logical site for increased density and to satisfy State’s recommendations for HC Element.

Page 3 (C): separate the two paragraphs and change to Town Council instead of Planning Commission. Reference Housing Element page 43 which is from the HCD Guidelines for comparison table and parcels impacted by affordable housing.

\*9:41pm

Page 3 (D): LaMotte recommended adding the rationale for the section having 15% landscape requirement was to encourage permeable surfaces and open space and reference Page 4 (F) OR (I) to retain storm water...

Page 4, last paragraph, Commissioner Goyan recommended changing it to read like the ordinance for covered parking and solar. “Promoting High quality design compatible with the character of the Town of Fairfax.”

Commissioner Hamilton recommended the following changes:

Page 1, third paragraph, move Parking to Page 4, after the first paragraph since that section is all about Parking.

\*9:49 pm

Page 2, (A), in the middle of the page: Suggested rationale to change housing element. Mixed use overlay zone allows for both rental and “for sale” homes. It was added because it improved the economic viability for economic diversity and met HCD’s requirements.

Page 3, second paragraph, last sentence, Revise to: Affordable Housing Advocates state that 10-20% affordability is the generally accepted range and that outside funding would help facilitate the development of affordable housing. A variety of mechanisms to generate this funding was discussed at the Commission level.

Page 5, Title, Change to: OTHER ISSUES RELATED TO THE DRAFT ORDINANCE.

Commissioner Hoffmann said some of the reference of “this is what the Planning Commission discussed” seemed redundant. Commissioner Lacques felt for someone reading the Ordinance for the first time it might help to understand how the Planning Commission came to the decision.

Commissioner Ketcham advised early meetings, public comments and letters addressed storm water

\*10:05 pm

Commissioner Lacques thought that only the Green Building was a deletion that made sense to put it back in.

*ACTION:* Planning Director Welsh would provide a revised rationale and revised draft ordinance (not a resolution) for the May 15, 2008 meeting and bring all referenced exhibits, reference default density, Matrix, and letter from attorney. Planning Director Welsh would email Town Attorney’s initial letter to the Commission. Any revisions made at this workshop would only show revisions between this workshop’s version and draft changes. This workshop was the starting document and track changes would be turned on and changes made and a clean copy provided as well. No old comments would be shown for the Ordinance or the Rationale.

M/S Hoffmann-Lacques motioned to adjourn the meeting at 10:13 pm.

AYES: All (7)

These are summary minutes. A recorded copy is available.

Respectfully submitted,

Amy Dunnigan, Minutes Clerk