

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, February 17, 2011

Call to Order/Roll Call:

COMMISSIONERS PRESENT: Morgan Hall
Brannon Ketcham (Chair)
Peter Lacques
Shelby LaMotte
Ryan O'Neil
Peter Ramsay

COMMISSIONERS ABSENT: Shelley Hamilton (Vice-Chair)

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Senior Planner
Joanne O'Hehir, Minutes-Secretary

Chair Ketcham called the meeting to order at 7.30p.m.

APPROVAL OF AGENDA

M/s, LaMotte/Ramsay, Motion to approve the Agenda as presented.

Ayes: All

PUBLIC COMMENT ON NON-AGENDA ITEMS

No one from the public came forward to speak.

PRESENTATION

Chair Ketcham presented a Proclamation to former Planning Commissioner Pam Meigs and commended her for her years of service on the Planning Commission.

CONSENT ITEMS

There were no consent items on the agenda.

PUBLIC HEARING ITEMS

1. 40 Forrest Terrace; application #11-04: Request for a Use Permit and Side Setback Variance to legalize attic and basement improvements made to an existing single family residence and bring them into compliance with the Building Code and to construct kitchen and attic and basement additions totaling 344 square feet; Assessor's Parcel No. 002-091-01; Residential RD 5.5-7 Zone; Harold Lezzeni, Architect; Julian and Martha Pearl, owners; CEQA categorically exempt, § 15301(e) and 15305(a).

Senior Planner Neal announced that the applicants had requested a continuance to get a site survey and to liaise with the Fire Department with regard to their requirements.

M/S, Lacques/LaMotte, Motion to continue application #11-04, a request for a Use Permit and Side Setback Variance to legalize attic and basement improvements made to an existing single family residence and bring them into compliance with the Building Code and to construct kitchen and attic and basement additions totaling 344 square feet at 40 Terrace Avenue to a later date yet to be set.

Ayes: All

2. Draft Medical Marijuana Dispensaries Ordinance: Proposed amendment to the Fairfax Town Code/Zoning Ordinance to include a chapter regulating Medical Marijuana Dispensaries to address operating procedures, limiting the number and/or setting forth zones where dispensaries would be permitted by Use Permit including areas in the Central Commercial CC Zone, Highway Commercial H Zone, Limited Commercial CL Zone and Commercial Recreation CR Zone Districts; The proposed amendment does not constitute a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15061(3).

Planning Director Moore presented the staff report. He noted that his report was succinct because the report produced for the last Town Council meeting had also been included with the packet.

Mr. Moore said that the Council had discussed the guidelines for medical marijuana dispensaries and, as a result, the Draft Ordinance had been drawn up by staff. He discussed the timelines for bringing the Ordinance into existence and noted that it should be established before the moratorium ended in May.

Mr. Moore discussed a new law, AB 2650, which prohibited dispensaries from operating within 600 square feet of a school. This had affected some parcels in the central commercial zone that had been identified for the use of medical marijuana dispensaries, and so parcels on Bolinas Avenue, in the Light Commercial Zone, had been included.

However, Mr. Moore also noted that the Ordinance established a maximum of two legal marijuana dispensaries in the Town and that one was already in existence on a site that was legal, non-conforming.

Mr. Moore went on to discuss the zoning of Fair Anselm Plaza in relation to medicinal marijuana dispensaries.

Mr. Moore said that staff advised the Planning Commission to recommend approval of the Ordinance to the Town Council by adopting the Resolution after taking testimony from the audience.

Senior Planner Neal noted a minor correction to the Resolution.

Commissioner Ramsay and Mr. Moore discussed non-profit medical marijuana enterprises that would be allowed to operate in residential areas. Mr. Moore noted that a commercial enterprise could not legally operate in a residential area.

In response to Commissioner Hall, Mr. Moore said that the ordinance would not prohibit another activity at the dispensary. Commissioner Hall discussed door security with Senior Planner Neal, who confirmed that it would be addressed during the application process.

Chair Ketcham and Mr. Moore discussed sites in relation to schools and Mr. Moore confirmed he would check the definition of a school. Mr. Moore confirmed that the Draft Ordinance did not address growing or transporting medical marijuana.

Commissioner LaMotte thanked staff for their efforts in codifying all the previous discussions into an ordinance.

Chair Ketcham opened the hearing to public comment.

In response to _____, of San Anselmo and a business owner in Fairfax, Mr. Moore discussed the conditions under which a marijuana business could not operate in a residential area. He noted that the Draft Ordinance addressed commercial operations in commercial areas of town and that Counsel, who would be present at the next Town Council meeting, would only answer legal questions relating to the Draft Ordinance.

In response to Anthony Fanucchi, Frustuck Avenue, Mr. Moore discussed the recommendations for parcels suitable for marijuana dispensaries. He noted that the maximum number of 2 dispensaries had been considered suitable to meet the needs of the Fairfax community.

Chair Ketcham closed the meeting to the public.

Chair Ketcham and Mr. Moore discussed the Use Permit in relation to the language in the draft ordinance. Ms. Neal noted that a special medical marijuana dispensary fee did not exist and that a Use Permit fee would be charged.

Commissioner Hall and Mr. Moore discussed the parcel that was the former Town and Country Club. Commissioner Lacques discussed the reasons he believed this parcel would not be appropriate as a location for a dispensary, which included it being zoned Commercial

Recreational and that it would not be on a public street. There was general consensus that the parcel should not be included as a possible location for a medical marijuana dispensary.

Commissioner Lacques discussed the reasons he felt strongly that people under the age of 18 should not be allowed in a medical marijuana dispensary and that he would propose striking 17.140.100 (B) (2). Mr. Moore noted that the majority of Commissioners had supported this condition when a Conditional Use Permit had been issued to a medical marijuana dispensary.

General discussion took place on opening times and Ms. Neal noted that the Draft Ordinance did not have to mirror the use permit of another medical marijuana dispensary. Consensus was reached that the hours of 9 a.m. to 9 p.m. would be appropriate.

Discussion moved on to the maximum size allowed for a medical marijuana facility. General consensus was reached that 1500 square feet for the business operation would be suitable, which would exclude such facilities as bathrooms and the selling of equipment associated with marijuana.

General consensus was reached that the maximum amount of medical marijuana which could be dispensed would be 1 oz per patient per week.

Ms. Neal led a discussion on the size of signage that a dispensary could use in relation to the Sign Ordinance. There was general consensus that 6 square feet or 10 per cent of the window area would be an acceptable area for signage.

General discussion took place on parking when consensus was reached that the language should be amended to reference the Town Code section on parking that related to retail and personal services.

In response to Commissioner O'Neil, Mr. Moore noted that if the Resolution failed and/or the Draft Ordinance failed to pass, then the moratorium on medical marijuana applications would lapse in May, which would allow applications for medical marijuana dispensaries in any zone.

M/S, LaMotte/Ramsay, Motion to adopt Resolution 1102 proposing to the Town Council amendments to the Fairfax Municipal Code to include a chapter regulating Medical Marijuana Dispensaries as amended.

A roll call was taken:

Ramsay:	Aye
O'Neill:	Abstain
Ketcham:	Abstain
Lacques:	Aye
LaMotte:	Aye
Hall:	Aye

The motion passed with four votes.

DISCUSSION ITEMS

3. Discussion of possibility of combining of the Design Review Board and Planning Commission into one body to review discretionary permit applications.

Planning Director Moore discussed the reasons why staff supported the combining of the Design Review Board and Planning Commission, which included the reduction in workload for the under-staffed Planning Department. Mr. Moore said that it would result in the Design Review Board being disbanded.

Chair Ketcham and Mr. Moore discussed the proposal in relation to the Streamlining Act.

Commissioner LaMotte explained the advantages from a client's perspective and confirmed that she supported the proposal.

In response to Commissioner O'Neil, Mr. Moore said that he did not know how many Council Members supported the proposal.

There was general consensus to support the proposal to combine the Design Review Board and the Planning Commission.

PLANNING DIRECTOR'S REPORT

Planning Director Moore discussed the General Plan Implementation Committee (GPIC) and the Climate Action Committee. He suggested that the former manager the latter, to which there was general consensus amongst the Planning Commissioners.

APPROVAL OF MINUTES

4. Review of the minutes from the meeting of January 20, 2011

M/S, LaMotte/Lacques, Motion to approve the Minutes of January 20, 2011:

Ayes: Hall, Ketcham, Lacques, LaMotte, Ramsay
Abstain: O'Neil

COMMISSION COMMENTS AND REQUESTS

In response to Chair Ketcham, Mr. Moore confirmed that Counsel had said the town had no jurisdiction over private individuals who grew marijuana in a residential area for non-commercial purposes.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10.50 p.m.

Respectfully submitted,

Joanne O'Hehir