

Town of Fairfax Planning Commission Minutes  
Fairfax Women's Club  
Thursday, May 17, 2012

**Call to Order/Roll Call:** Barbara Coler  
Shelly Hamilton (Chair)  
Laura Kehrlein  
Brannon Ketcham  
Peter Lacques (7.08 p.m.)  
Morgan Hall (7.30 p.m.)

**COMMISSIONERS ABSENT:** Shelby LaMotte (Vice-Chair)

**STAFF PRESENT:** Linda Neal, Senior Planner  
Joanne O'Hehir, Minutes-Secretary

Chair Hamilton called the meeting to order at 7.05 p.m.

**APPROVAL OF AGENDA**

M/s, Coler/Kehrlein, Motion to approve the agenda:

Ayes: All

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

No one from the public came forward to speak.

Commissioner Lacques joined the meeting.

**CONSENT ITEMS**

1. 12 Valley Road; Application # 12-08: Request for a Use Permit and Variances to allow reconstruction and expansion of a fire damaged single-family residence adding/restoring 240 square feet of living space with 128 square feet of storage below for a total square footage of 1,372 square feet including reconstruction and expansion of the fire damaged carport; Assessor's Parcel No. 003-192-03; Residential Single-family RS 6 Zone District; David La Bua and Josephine Prudhomme, applicants/owners; CEQA categorically exempt, § 15301(d) and (e).

Chair Hamilton opened and then closed the public comment period when no-one from the public came forward to speak.

M/s, Lacques/Coler, Motion to approve the consent item:

AYES: All

Chair Hamilton read the appeal rights.

## **PUBLIC HEARING ITEMS**

2. 150 Bolinas Road; Application # 79-UP-33; Continued review of an approved Use Permit modification to allow the existing 7-11 convenience store to remain open 24 hours; Assessor's Parcel No. 002-101-13; Highway Commercial CH Zone District; Richard Mathews Trust, owner; Rajiv Uppal, applicant; CEQA categorically exempt, § 15301.

Senior Planner Neal presented the staff report. Ms. Neal provided background information on the previous two hearings, and she noted that the applicant had complied with the original conditions of approval, and also the three subsequent conditions of approval. For those reasons, Ms. Neal said that staff could recommend approval of the modification to the use Permit with the conditions laid out in the staff report.

Police Chief Christopher Morin presented his report. He noted that he had provided the data requested by the Commissioners at the previous meeting, which included information that related to activity attributable to the 7/11 store and along Park Road, from midnight to 6 a.m., during the year before the extended opening hours and the year afterwards. Chief Moran discussed the types of complaints and he noted that they were not necessarily attributable to the store.

Police Chief Morin and Commissioner Coler discussed the number of incidents that occurred at 150 Bolinas Road both before and after the store's extended hours. Chief Morin said that he did not believe there was a significant difference between the 16 incidents that occurred prior to the extended opening hours and the 20 that occurred afterwards. He noted that some of the incidents were contacts between the Police and members of the public, where no wrong had taken place. However, he said that all contacts with the public and all incidents were logged.

In response to Chair Ketcham, Chief Morin said he believed that the number of incidents related to the store had remained virtually the same as those that had taken place a year prior to the extended store opening hours.

Commissioner Hall arrived at 7.30 p.m.

Chief Morin and the commissioners discussed noise complaints, when Chief Morin noted that they received many more complaints from other establishments downtown.

Applicant, Rajiv Uppal, noted they had complied with all the conditions and would continue to do so. He discussed some supplemental materials he had provided to the commissioners in support of his application.

Chair Hamilton opened the public comment period.

Misty Moreno, 9 Park Road, discussed landscaping on the Park Road side, which she said had not been maintained. Ms. Marino discussed noise issues and the problems of members of the public urinating on their side of the fence. Ms. Marino asked the Commissioners to rescind the modified Use Permit.

Chair Hamilton closed the public comment period.

Commissioner Kehrlein suggested that a solid fence between Ms. Marino's property and the store's property be erected to mitigate some of the issues raised.

Commissioner Coler noted that landscaping along Park Road had not been discussed and suggested that the store should maintain that side of the property. She agreed with the idea of a fence and suggested that a "no parking" sign be placed on the front of the store building.

Commissioners Ketcham, Lacques and Hall were in agreement to a fence being erected as an additional condition of approval. Commissioner Hall noted that there seemed to be support for the extended opening hours, with opposition from just one source.

Chair Hamilton noted that there had not been a significant increase in incidents, noise, and loitering due to the extended opening hours and that she could therefore support the application, along with the additional condition that a fence be erected between Ms. Moran's side and 150 Bolinas Road.

Commissioner Lacques said that the statistics had not seemed to have materially changed since the extended opening hours and that he would support the application.

M/s, Coler/Hall, Motion to approve Application # 79-UP-33, the continued review of an approved Use Permit modification to allow the existing 7-11 convenience store to remain open 24 hours at 150 Bolinas Road, with the conditions adopted at the previous two hearings and the following additional conditions:

1. That a solid fence be erected between 150 Bolinas Road and 9 Park Road, the height to be determined by staff, with special dispensation to exceed the height limit, if necessary, to mitigate car head lamp problems specific to 9 Park Road.
2. Landscaping treatment shall be installed in the established planting beds on Park Road and the .....removed on the south east corner and replaced with planting beds.
3. A "No parking" and "No idling" sign shall be attached to the building adjacent to the two spaces that are chained off after 9 p.m.

A roll call took place:

Kehrlein: Aye  
Coler: Aye  
Ketcham: Aye

Hamilton: Aye  
Lacques: Aye  
Hall: Aye

The motion passed unanimously and Chair Hamilton read the appeal rights.

3. 6 School Street Plaza, Suites 100 and 110; Application # 12-09, Request for a Use Permit to operate a spa that provides sensory deprivation tank treatments Assessor's Parcel No. 002-112-13; Limited Commercial CL Zone District; Fred Ezazi, Ezazi and Associates, owner; Kimberly Palczynski, applicant; CEQA categorically exempt, 15301(a).

Senior Planner Neal presented the staff report. She noted that the ordinance that governed spas and hot tubs had not been updated since the 1970s, and that regulations for sensory deprivation tanks did not seem to exist in the United States. However, Ms. Neal noted that they were regulated in Canada and that guidelines had been provided from the Alberta Health Department.

Ms. Neal said that the Assistant Town Attorney had suggested the conditions of approval be made specific to this particular use.

Ms. Neal and Commissioners Lacques and Coler discussed water disposal, which Ms. Neal noted would be drained into the sewer system.

Kimberly Palczynski, applicant, discussed the chemicals that would be used in the tanks, which she said would not be hazardous.

In response to Commissioner Hall, Mr. Ezazi, property owner, said that the tanks would be laid on concrete slab.

Ms. Palczynski and Commissioner Lacques discussed the materials that she intended adding to the water in the tanks, and she confirmed she would not be proposing to use chlorine.

Ms. Palczynski and Commissioner Coler discussed the operational requirements that were included with the materials provided to the Commissioners, the purification chemicals she proposed using and various sanitary issues.

General discussion between the commissioners and Ms. Neal ensued regarding the regulation of sensory deprivation tanks. Ms. Neal noted that County health standards did not exist.

A discussion took place on the proposed materials that were anticipated being used in the tanks. Commissioner Hall noted that the Planning Commission governed land use and should not get involved in specifying the kinds of chemicals and materials the tanks would use.

The applicant discussed the use of H2O2 (hydrogen peroxide) and the cleaning process.

General discussion amongst commissioners took place on the standards provided in the packets. Commissioners Lacques and Coler expressed their concern that inadequate information had been provided relating to such items as cleaning and testing.

Chair Hamilton opened the public comment period. Fred Ezazi, property owner expressed his concern that the commissioners were attempting to regulate something about which they had no expertise and he suggested that the County Health Department should be responsible for regulating the business.

In response, Ms. Neal confirmed that Marin County's Health and Human Services Dept. did not regulate this kind of business.

A member of the public associated with the project said that he believed sufficient information on the contents of the tanks had been provided.

Commissioner Coler said that there appeared to be no regulations on the safety of sensory deprivation tanks with the exception of materials from Alberta, and that she was not inclined to support the project based on the information provided.

In response to Commissioner Kehrlein, Ms. Neal said that the County had updated their pool and spa regulations but that nothing had been included with regard to sensory deprivation tanks.

Commissioner Ketcham addressed water quality standards and led a discussion on testing.

Chair Hamilton recused herself from the podium for 3 minutes at 9 p.m.

Ms. Palczynski was invited by the Chair to comment on the Alberta standards. She noted that she proposed using H2O2 instead of chlorine but would otherwise be adopting most of the standards. Ms. Palczynski discussed the cleaning process and the proposed water testing.

Chair Hamilton and Ms. Neal discussed modification of a use permit when Ms. Neal noted that a use permit could be withdrawn any time. General consensus was reached amongst the commissioners that the Alberta standards should be adopted, including regular testing of samples by an independent company.

M/s, Hamilton/Hall, Motion to approve Application # 12-09, a Use Permit to operate a spa that provides sensory deprivation tank treatments at 6 School Street Plaza, Suites 100 and 110, based on the findings and conditions in the staff report, and with the following additional conditions of approval:

That the application shall be reviewed three months after the business has opened.

That health standards and guidelines for sensory deprivation tanks from Alberta Health (Exhibit D) shall be adopted with the following amendments:

1. That all references to chlorine be omitted.
2. Page 4, first bullet point, "...Provincial Laboratory of Public Health" shall be replaced with "California certified laboratory".
3. That "Executive Officer" shall be replaced by "Town planning staff".
4. Page 4, the paragraph under the first bullet point shall read "If an unsatisfactory sample is received the tank shall be closed.....the tank shall not be reopened until test results are received from the approved laboratory that meets all the criteria in Appendix A....."
5. The results of these tests shall be submitted to the Town of Fairfax every 2 weeks.
6. The last bullet point on page 5 relating to how the tanks shall be situated shall be removed.

Commissioner Lacques made a friendly amendment that the test results shall be made available when the application is reviewed by the Planning Commission 3 months after the business has been open, which was accepted by Commissioner Coler.

A roll call took place

Hamilton: Aye  
 Kehrlein: Aye  
 Coler: Aye  
 Ketcham: Aye  
 Lacques: Aye  
 Hall: Aye

Chair Hamilton read the appeal rights before announcing a 5-minute break at 9.45 p.m. and she reused herself from the meeting.

**APPROVAL OF MINUTES**

4. Minutes from the April 19, 2012 meeting

M/s, Coler/Lacques, Motion to approve the minutes from the April 19 2012 meeting with the following amendments:

Page 2, fourth paragraph was amended to read: "Bob Klock, Fairfax resident, thanked the Commissioners for taking the time and effort to serve on the Planning Commission".

Page 3, "quite title" amended to read "quiet title".

Page 5, "offence" amended to "offense".

Page 6, second paragraph shall be amended to read “Commissioner Lacques discussed with staff his concern that the materials provided were not adequate for the commissioners to perform their design review function and, in future, would request that they provide more detailed information so that the commissioners could make more informed design review decisions. Commissioner Kehrlein said that .....

Ayes: All

## **APPOINTMENT**

5. Appointment of a Planning Commission member to serve as the Commission’s Tree Committee representative and another member to serve as an alternate.

M/s, Coler/Kehrlein, Motion to appoint Commissioner Lacques as an alternate to serve on the Tree Committee with Commissioner Hall to remain as the Planning Commission’s representative on the Tree Committee.

Ayes: All

## **DISCUSSION ITEMS**

6. Continued discussion/Consideration of a permitting process to allow "parklets" (temporary sidewalk extensions turning parking spaces into pedestrian gathering spaces).

Commissioner Hall reported on the discussion held by the Chamber of Commerce on “parklets”. There was general consensus that they should be situated outside cafes and eating areas and along Bolinas Road and possibly Broadway. Commissioner Hall said that design was not the Chamber of Commerce’s area of expertise and that he had not received further ideas from board members via e-mail.

Commissioner Hall suggested that a sub-committee should be formed to develop ideas about “parklets”, to which there was general consensus.

Commissioner Coler discussed the problems that might occur if parking spaces were reduced in order to establish “parklets”.

## **PLANNING DIRECTOR’S REPORT**

There was no Planning Director’s report scheduled for this meeting.

## **COMMISSIONER COMMENTS AND REQUESTS**

In response to Commissioner Ketcham, Ms. Neal noted that the Planning Director would be scheduling a training session for the commissioners.

Commissioner Lacques requested that the costs of producing design presentation materials be provided. Commissioners Hall and Kehrlein said they would provide design review presentation materials.

**ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10.20 p.m.

Respectfully submitted,

Joanne O'Hehir