

Town of Fairfax Planning Commission Minutes  
Fairfax Women's Club  
Thursday, June 20, 2013

**Call to Order/Roll Call**

Chair Hamilton called the meeting to order at 7:06 p.m.

**COMMISSIONERS PRESENT:** Roxanne Ezzet-Lofstrom  
Morgan Hall  
Shelly Hamilton (Chair)  
Laura Kehrlein  
Brannon Ketcham  
Shelby LaMotte (Vice-Chair)

**STAFF PRESENT:** Jim Moore, Planning Director  
Linda Neal, Senior Planner Neal  
Arijit Sen, Intern  
Joanne O'Hehir, Minutes Secretary

**APPROVAL OF AGENDA**

M/s, Ezzet-Lofstrom/LaMotte, Motion to approve the agenda:

AYES: All

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

No one from the public came forward to speak.

**CONSENT ITEMS**

- 1. 23 Bolinas Road; Application # 13-14**  
Request by an existing restaurant/wine bar for a Use Permit and design review for an outdoor seating area; Assessor's Parcel No. 002-104-08; Central Commercial CC Zone; Dominic Phillips, applicant/business owner; Jennie Arconti Trust, property owner; CEQA categorically exempt, § 15305(b).
- 2. 94 Forrest Avenue; Application # 13-18**  
Request for a Use Permit and Variances to construct a trellis carport cover and entryway cover over an existing uncovered parking deck and entryway of an existing single family residence; Assessor's Parcel No. 002-191-31; Residential Single-family RS 6 Zone; Rich Rushton, Rushton-Chartock Architects, applicant; George Khouri and Mary Fleming, owners; CEQA categorically exempt, § 15301(a).

M/s Ketcham/Hall, Motion to approve the consent items.

AYES: All

Chair Hamilton announced the appeal rights.

## **PUBLIC HEARING ITEMS**

7.08 p.m.

### **3. Parkade Mural Banner; Application # 13-15**

Request for Design Review of a temporary sign to be hung on the south wall of the parkade parking lot notifying the public of a proposed future mural location and including a number to obtain additional information; Assessor's Parcel No. 001-227-01; Central Commercial CC Zone; Chris Lang/Park and Recreation Commission, applicants; Town of Fairfax, property owner.

Senior Planner Neal presented the staff report. She provided background information on the project, which included a request by the applicant in November 2012 to the Parks and Recreation Commission (PARC) to hang the banner on the parkade wall to generate support and interest in a future mural project. At that time, PARC recommended that the Planning Commission review the design of the banner.

Ms. Neal discussed the contents of the banner and said that staff's position was that the hanging of a temporary banner would be premature, for reasons she explained, and would recommend a continuance in order to refine and update the process.

In response to Commissioner Ketcham, Ms. Neal confirmed that the location belonged to the town.

Commissioner Ezzet-Lofstrom and Ms. Neal discussed the process involved in obtaining authorization to hang a banner.

Ms. Neal and Commissioner Kehrlein discussed temporary banners.

Director Moore discussed the reasons for bringing the item forward.

Christopher Lang, Applicant, provided background information on the banner. He explained why he believed that the Planning Department could have made a decision administratively as to whether the banner could be hung at the requested location.

Commissioner Ketcham and Mr. Lang discussed the purpose of the banner and the reasons why a banner promoting a mural were being discussed rather than designs for a mural.

Commissioner Ketcham and staff discussed the banner in relation to the parkade improvements.

Commissioner Ezzet-Lofstrom and Mr. Lang discussed the length of time he expected the banner to be hung at the site.

Vice-Chair LaMotte suggested other ways of promoting a project that did not involve erecting a banner on town property.

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

The Commissioners discussed the banner. There was general consensus that a banner was not the right way to advertise a mural project; that funding and design needed to be considered beforehand. Staff were directed to request the Parks and Recreation Department to establish a process and a way of notifying and advertising/soliciting artwork designs that could be considered for the mural.

M/s, Lamotte/Kehrlein, Motion to continue Design Review of a temporary sign to be hung on the south wall of the parkade parking lot notifying the public of a proposed future mural location and including a number to obtain additional information.

AYES: All

8 p.m.

4. **271 Tamalpais Road; Application # 13-13**

Request for a Use Permit to construct a 438 square foot stepped deck/stairway/trellis and planter structure on an existing foundation system.; Assessor's Parcel No. 001-063-53; Residential Single-family RS 6 Zone; Dominic Phillips and James Gregory, applicant/owners; CEQA categorically exempt, § 15303(e).

Senior Planner Neal presented the staff report. Ms. Neal explained that the applicants were proposing to build stepped decks on top of foundations that would include raised planting beds and latticed screens at the edge of the decks, which would be stepped down the hill. She noted that a Use Permit would be necessary because the property did not meet the minimum size and width requirements on a slope to allow improvements, albeit that the permeable decking would not increase the lot coverage. Ms. Neal also noted that the decks would meet the minimum combined setbacks and that they did not count towards FAR.

Ms. Neal noted that staff could recommend approval of the project based on the findings and conditions in the staff report.

Commissioner Ketcham and Ms. Neal discussed the decks.

Jeff Mehaney, Applicant's representative and resident of Wood Lane, discussed the project in more detail. He said that the trellis would provide privacy.

Commissioner Kehrlein and Mr. Mehaney discussed the fence in relation to the trellis and the height of the planter boxes.

Chair Hamilton opened the public comment period.

Charles Richardson, Tamalpais, a next door neighbor, said that he appreciated the screening and the adherence to a 5 foot setback. However, he asked that the applicants be required to have the property line surveyed to establish its exact position.

Sherry Richardson, Tamalpais, discussed her concerns regarding the foundation.

Chair Hamilton closed the public comment period.

General discussion took place between staff and commissioners regarding the necessity of a survey and the requirement that the plans be stamped by both a civil and geotechnical engineer.

M/s, Ketcham/LaMotte, Motion to approve Application # 13-12 for a Use Permit to construct a 438 square foot stepped deck/stairway/trellis and planter structure on an existing foundation system at 2626 Sir Francis Drake Boulevard with the following amended conditions:

That Condition 1 shall be amended to read:

The Building Official shall verify the location of the side property line and the 5 foot side setback based upon a verified survey prior to the start of construction.

That Condition 4d shall be amended to read:

“A letter shall be submitted by a licensed civil/geotechnical engineer.....”

AYES: All

Chair Hamilton read the appeal rights.

8.23 p.m.

5. **1599 Sir Francis Drake Boulevard; Application # 13-16**

Request for a Use Permit, Parking Variance and Traffic Impact Permit to operate a Dailey Method fitness program that combines pilates, yoga and orthopedic exercises in an hour long exercise regime; Assessor’s Parcel No. 002-213-27; Central Commercial CC Zone District; Doug and Jill McIntosh, applicants; William Isetta, owner; CEQA categorically exempt, § 15301(a).

Commissioner Kehrlein recused herself because she had a professional association with the applicants and Senior Planner Neal presented the staff report. Ms. Neal discussed the proposed project and the Use Permit, which she said would be necessary because physical fitness businesses were not permitted in the zoning district. She noted that the Dailey Method was a franchise business, although she noted that it would be owned and operated by Marin residents.

Ms. Neal discussed the reasons staff believed that this franchise business would be suitable for the CC Zone, which included there being no other business that operated a 1-hour workout/fitness program, in addition to it being a unique program that would be appropriate for a town such as Fairfax.

Ms. Neal went on to discuss the Traffic Impact Permit and traffic study. She noted that the increased traffic should not result in any significantly increased traffic impacts, which included traffic at various intersections.

Ms. Neal also discussed the parking variance and the reasons for which staff could support a variance, which related to the size of the classes and length of time they would be held. Staff believed that there would be adequate on-site parking. She also discussed design review, which included the removal of trees that were considered to have outgrown the location and which would be replaced by galvanized planters.

Overall, Ms. Neal explained that staff could support the project for the reasons discussed and the findings provided in the staff report.

Chair Hamilton and Ms. Neal discussed the easement.

Commissioner Hall and staff discussed tree removal. Planning Director Moore noted that the applicants would need approval from the Tree Commission.

Doug and Jill McIntosh, Applicants, said that the Fire Chief suggested they removed the trees.

Commissioner Ezzet-Lofstrom and Mr. McIntosh discussed the maximum class sizes. Mr. McIntosh said he believed that their business would be a good fit with the community, which he discussed.

Chair Hamilton opened the public comment period.

Wayne Van De Walker, Sir Francis Drake Boulevard, said that he shared a driveway with the applicants. He discussed his concerns about safety that related to ingress and egress and the lack of bicycle parking.

David Smadbeck, Co-President of the Chamber of Commerce said that he and the Chamber of Commerce fully endorsed the project.

A Creek Road resident said that she supported the project and that it would afford her the opportunity to ride her bike.

Scott Hochstrasse, Project Consultant, discussed the parking issues raised. He said that they were in agreement with the staff report.

Liz Capron, San Anselmo, said that she disliked driving to the Corte Madera branch of the Dailey Method and would look forward to riding her bike to the Fairfax branch.

Genevieve Broll, Shadow Creek Court, said that she spent a lot of time in her car driving to exercise places and that she would be able to use a bike if the project went ahead. She asked the supporters of the project to stand, of which there were about 15 supporters in attendance.

Commissioner Hamilton and Mr. Moore discussed ingress and egress relating to the Good Earth project and the timing of the light changes.

Vice-Chair LaMotte said that she appreciated the amount of work the applicants had put into their project by obtaining a traffic analysis and that she supported the project.

Commissioner Ketcham said that the business model was a good fit for the town.

In response to Commissioner Hall, Ms. Neal discussed the reasons why staff believed that the Town would be protected from a different, larger type of formula exercise business moving in and taking over the Use Permit.

Planning Director Moore said that he believed the resolution and findings were sufficiently prescriptive to protect the town.

In response to Commissioner Hall, Ms. McIntosh said that the Fairfax business would be operated by the owner and would not operate as a franchise.

Planning Director Moore noted that bicycle parking had been provided and that the removal of trees would need to be reviewed by the Tree Committee.

M/s, Ketcham/Hall, Motion to approve Application # 13-16, a request for a Use Permit, Parking Variance and Traffic Impact Permit to operate a Dailey Method fitness program that combines pilates, yoga and orthopedic exercises in an hour long exercise regime at 1599 Sir Francis Drake Boulevard with the addition of item 10 to the Resolution:

Use of the site shall remain consistent with the approved stipulations required for this formula business.

AYES: All

Chair Hamilton announced the appeal rights.

9.08 p.m.

**6. 2626 Sir Francis Drake Boulevard; Application # 13-12**

Request for a Use Permit and Design Review to erect a 980 square foot portable classroom structure and accessible access pathway on an existing church site where a private school is also in operation; Assessor's Parcel No. 174-070-17; Planned Development PDD Zone; Cascade Canyon School, applicant; Christ the Victor Lutheran Church, owner; CEQA categorically exempt, § 15303(c).

Senior Planner Neal presented the staff report. Ms. Neal explained that the application was for a Use Permit to relocate a storage shed and construct a classroom in the location of the shed. She discussed the zone and the reasons why staff had directed the applicants to meet the minimum setbacks for the residential RS 6 Zone District.

Commissioner Kehrlein returned to the podium.

Ms. Neal went on to discuss parking and the reasons staff believed that adequate parking existed. She also discussed design review and the findings that staff could make to support the project, which included the finding that the design and materials would meet the design review criteria set forth in the Town Code.

Andres Edwards, Azalea Avenue, Board Member, provided background information on the school and introduced the project team.

Steve Peterson, Healthy Buildings, used a slide presentation to discuss the green project. He discussed the key features of a Healthy Classroom and the design of the building and its materials.

Mr. Peterson discussed the components of the building in response to Commissioner Ketcham.

Commissioner LaMotte and Lisa Batto, Healthy Buildings, discussed the foundation.

Ms. Ezzet-Lofstrom and Ms. Batto discussed the shed. Staff confirmed it was unlikely that a building permit would be necessary for the removal and relocation of the shed.

Commissioner LaMotte and Mr. Edwards discussed the siting of the new building in relation to the redwood tree that was slated for removal. Ms. Batto noted that the tree needed to be removed in order to meet Fire Code egress requirements.

In response to Commissioner Kehrlein, Mr. Edwards said that they had contacted the communication companies responsible for the overhead utility lines that they would need to raise.

Chair Hamilton opened the public comment period.

Karen Wilhoyte, science teacher, discussed the current inadequate conditions of their science room and the advantages of the new classroom.

Tom Asher, Rocca Drive, father of a student, said that the new building would be aesthetically pleasing and that he supported the project.

Dan Gottsegen, Crest Road, father of two students, discussed the benefits of the school. He asked the commissioners to support the project.

Karl Vavrek, Canyon Road, Board Member, said that the project represented an opportunity to make a great space for a science classroom.

Tera Ferguson, Fairfax business owner and resident, said that she supported the project.

Chair Hamilton closed the public comment period.

In response to Commissioner Ezzet-Lofstrom, Mr. Edwards said that they would have the capacity to double the size of the classes with the new building.

Vice-Chair LaMotte expressed concern about a large valley oak tree on a neighboring property that she believed would be impacted by the slab foundation. She also expressed concern that a tree protection plan had not been provided, and she discussed ways in which the oak tree could be protected.

Chair Hamilton said that she supported the project.

Commissioner Ketcham said that it was a great project and Commissioner Hall commended the applicants on their design.

M/s, LaMotte/ Ezzet-Lofstrom, Motion to approve application # 13-12, a request for a Use Permit and Design Review to erect a 980 square foot portable classroom structure and accessible access pathway on an existing church site where a private school is also in operation at 2626 Sir Francis Drake Boulevard, with the added condition of approval that a tree report and tree protection plan be submitted to staff for their approval that related to the valley oak tree on the neighboring property.

AYES: All

Chair Hamilton announced the appeal rights.

9.50 p.m.

**7. 767 Center Boulevard; Application # 13-17**

Request for a Use Permit to operate a dog washing facility with pet retail from an existing commercial building; Assessor's Parcel No. 002-131-14; Central Commercial CC Zone District; Jason O'Hara, applicant; Fairfax Center Properties, LLC, owner; CEQA categorically exempt, § 15301(a).

Vice-Chair LaMotte recused herself from the podium because she had a professional association with the applicants and Senior Planner Neal presented the staff report. She discussed the proposal and the reasons why a Use Permit would be necessary. Ms. Neal said that staff believed the proposed hours of operation and the operation plan should not conflict with the restaurant business next door or any other businesses in the vicinity.

Ms. Neal discussed the conditions required by other agencies, and the reasons staff could support the application, which included the reason that the business would not generate more traffic than would be generated by similar businesses, with the recommended conditions of approval.

Jason O'Hara and Steve Davies, Applicants, said they would be happy to answer any questions that the commissioners might have.

In response to Commissioner Ezzet-Lofstrom, they discussed the consequences if a customer was delayed in picking up their pet. They said that it would involve higher fees and they noted that they did not intend to cage animals.

Mr. O'Hara and Mr. Davies discussed the use of hair traps to protect drains in response to Commissioner Ketcham.

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

Commissioner Kehlein said that the business would be a suitable use for the location.

M/s, Ezzet-Lofstrom/Ketcham, Motion to approve Application # 13-17, a request for a Use Permit to operate a dog washing facility with pet retail from an existing commercial building at 767 Center Boulevard, with the recommended conditions set forth in the staff report.

AYES: All

Chair Hamilton read the appeal rights and announced at 10-minute break.

10:06 p.m.

8. Continued discussion/consideration of a draft Ordinance regulating leaf blowers and other powered equipment and possible adoption of Resolution 13-4 recommending approval to the Town Council. Zoning - All residential and commercial zones districts in Town; Direction originates from Town Council Resolution No. 13-3 directing the Commission to include but not be limited to: ordinance effect date, permitted times and days of operation, hardship/exemption considerations and processing, inclusion of other gasoline powered equipment and penalties.

Planning Director Moore introduced Planning Intern Arijit Sen.

Mr. Sen noted that amendments had been added to the noise ordinance, which had been discussed at the previous meeting. Commissioner Ketcham discussed the changes in more detail.

The commissioners reviewed the draft Ordinance and made minor amendments and additions.

A discussion took place on the number of complaints that would elicit action by the Town.

In response to Chair Hamilton, Mr. Moore said that noise impacts had been addressed in the main by limiting the hours of use and thereby working towards the mitigation of disturbance caused to the environment and public health.

Commissioner Hall and Ms. Neal discussed the possible noise impacts caused by a resident using hand tools at an unacceptable hour. Commissioner LaMotte noted that the Ordinance addressed such problems.

Chair Hamilton opened the public comment period.

Marsha Wilde, Forest Avenue, discussed the problems they had encountered with a project that had caused construction noise over a long period of time. She said that it had been the reason that their tenants had moved out of their duplex. She discussed the damage caused to her personal life and health and she urged the commissioners to consider the long-term effects when providing building permits.

Mr. Moore discussed the particular project to which Ms. Wilde had referred. He noted that there was nothing in the Building Code that restricted the time in which a project needed to be completed, but that they would be recommending that the Town Council adopt the shorter hours of construction that the Commission suggested.

M/s, Ketcham/LaMotte, Motion recommending that the Town Council approve the draft Ordinance regulating leaf blowers and other powered equipment and adopt Resolution 13-4 with the modifications discussed to the “redlined version” with the following amendment to the Resolution:

**WHEREAS**, The Fairfax Planning Commission recommended Staff to change operation hours of all power equipment from 8 a.m. to 8 p.m. to 8 a.m. to 6 p.m. only during weekdays, and from 9 a.m. to 8 p.m. to 9 a.m. to 4 p.m. only during weekends; to:

**WHEREAS**, The Fairfax Planning Commission recommended Staff to change operation hours of all power equipment from 8 a.m. to 8 p.m. to 8 a.m. to 6 p.m. only during weekdays, and from 9 a.m. to 8 p.m. to 9 a.m. to 4 p.m. only during weekends and holidays.

AYES: All

## MINUTES

9. Minutes from the May 20, 2013 Planning Commission meeting.

M/s, Kehrlein/Hall, Motion to approve the Minutes of May 20, 2013:

AYES: Ezzet-Lofstrom, Hall, Hamilton, Kehrlein, Ketcham

ABSTENTION: LaMotte

## **10. PLANNING DIRECTOR'S REPORT**

Planning Director Moore discussed a meeting at which he had arbitrated between local residents and the owners of The Good Earth store to address noise impacts. He reported that agreement had been reached whereby if the noise could be eliminated from the truck that delivered at 5 a.m., the restrictions after 6 a.m. would be lifted.

### **DISCUSSION ITEMS**

There are no discussion items scheduled for this agenda.

### **COMMISSIONER COMMENTS AND REQUESTS**

Commissioner Hall and Planning Director Moore discussed the level of consideration that should be given to an individual complaint in relation to a whole project.

Chair Hamilton requested that Mr. Moore agendaize the commissioners' list of priorities for the July meeting. Mr. Moore noted that planning applications had increased.

### **ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 11:00 p.m.

Respectfully submitted,

Joanne O'Hehir