Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, February 20, 2014

**Call to Order/Roll Call**

Chair Hamilton called the meeting to order at 7:00 p.m.

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| **COMMISSIONERS PRESENT:** | Philip Green<br>Esther Gonzalez-Parber<br>Shelly Hamilton<br>Laura Kehrlein (Vice-Chair)<br>Brannon Ketcham (Chair)<br>Shelby LaMotte |
| **COMMISSIONERS ABSENT:** | Roxanne Ezzet |
| **STAFF PRESENT:** | Jim Moore, Planning Director<br>Linda Neal, Senior Planner<br>Joanne O'Hehir, Minutes Secretary |

**APPROVAL OF AGENDA**

M/s, Green/Gonzalez-Parber, Motion to approve the agenda with the item on 292 Forest Avenue continued to the meeting of March 20, 2014.

AYES: All

**ELECTION OF CHAIR, VICE CHAIR AND TREE COMMITTEE REPRESENTATIVE**

M/s, LaMotte/Green, Motion to elect Commissioner Ketcham as Chair:

AYES: All

M/s, LaMotte/Gonzalez-Parber, Motion to elect Commissioner Kehrlein as Vice-Chair:

AYES: All

M/s, Hamilton/Gonzalez-Parber, Motion to elect Commissioner LaMotte to the Tree Committee with Commissioner Kehrlein as an alternate:

AYES: All

**OPEN TIME FOR PUBLIC EXPRESSION:**

No one came forward to speak.

## CONSENT ITEMS

1. **1966 Sir Francis Drake Blvd.; Application # 14-02:** Sign Permit application requesting an exception to the Sign Ordinance regulations to erect a wall/monument sign that will display the words, "Mountain Bike Hall of Fame" and names of benefactors to the business, the Marin Mountain Bike Museum; Highway Commercial CH Zone District; Assessor's Parcel No. 001-221-12; Joe Breeze, applicant; Mark Squire, owner; CEQA categorically exempt, § 15303(e).

In response to Commissioner Kehrlein, Senior Planner Neal briefly discussed the proposed building materials.

2. **12 Vista Way; Application # 14-03:** Request for a modification of a previously approved Use Permit and an Encroachment Permit to construct a small retaining wall and additional driveway area within the public right-of-way to provide improved driveway accessibility to the on-site parking ; Residential RS 7.5 Zone; Assessor's Parcel No. 001-261-23; Edward Scheidelman, applicant/owner; CEQA categorically exempt, § 15305(b).

M/s, LaMotte/Green, Motion to approve Consent:

AYES: All

Chair Ketcham read the appeal rights.

## PUBLIC HEARING ITEMS

7:15 p.m.

4. **14 Geary Avenue; Application # 14-05:** Request for a Use Permit, Combined Side Setback and Floor Area Ratio Variances to legalize a third story room addition and 204 square foot second story pantry/storage room expansion of a single-family residence; Residential Single-family RS 6 Zone District; Assessor's Parcel No. 001-225-03; Dustin and Angela Ballard, applicants/owners; CEQA categorically exempt, § 15301(e)(1).

Senior Planner Neal presented the staff report. She provided background information on the two additions, which she said had been constructed without permits and which the applicants hoped to legalize. Ms. Neal noted that three discretionary permits would be needed, which she discussed. She said that the Use Permit would be necessary because the parcel did not meet the minimum size and width requirements for a sloped lot. She also discussed the combined side yard setback variance and Floor Area Ratio (FAR) variance, which had been requested because the FAR limit had been exceeded by 3% at 43%.

Ms. Neal discussed the reasons why staff could support the project, which included the belief that the home would be similar in appearance, size and massing to other homes in the

neighborhood. Staff believed that this would be sufficient to grant the FAR variance. Ms. Neal confirmed that staff also supported the project based on the recommended findings and the conditions of approval contained in the staff report.

In response to Vice-Chair Kehrlein, Ms. Neal discussed the storage/laundry room that had been constructed without permits and which had not been constructed in accordance with the Building Code.

In response to Commissioner Gonzalez-Parber, Ms. Neal discussed access to the crawl space. She noted that the space could only be used as storage and not as living space unless it was altered to meet the fire and building codes.

In response to Chair Ketcham, Ms. Neal confirmed that, if the two additions that had been built without permits were legalized, the FAR would exceed the limit allowed.

In response to Commissioner Gonzalez-Parber, the applicants, Dustin and Angela Ballard, discussed access to the crawl space and placement of the washer and dryer.

Vice-Chair Kehrlein discussed the storage area in relation to the exceeded FAR and the need to install a fire sprinkler system with the applicants.

Chair Ketcham and Mr. Ballard discussed the possible need to completely remove and re-build the storage space.

In response to Commissioner Hamilton, Ms. Neal said that open permits would not affect the sale of a property. Chair Ketcham opened the public comment period.

Mark Hesse, 18 Geary, discussed his concern that related to a window that would be facing his property and which had been removed from the plans. He said that he now supported the project.

Chair Ketcham closed the public comment period. He discussed the drawings with Ms. Neal, which he said were not clear.

Commissioner Green discussed changes to the condition that related to the Town being held harmless from any legal claims. There was general consensus amongst the commissioners to accept the changes with the Town Attorney's agreement.

Chair Ketcham discussed his concern that the project had already been built and that the storage space could potentially be used as living space. Ms. Neal said that, if the space were reconfigured to provide living area, it would not make the house look larger and that the size of the house was in the mid-range compared to others in the neighborhood.

Vice-Chair Kehrlein discussed an amendment to the condition that related to a building permit being obtained for the sun room, to which there was general agreement.

Commissioner LaMotte noted that the foot print of the residence would not be changed and the residence would not be enormous, despite the FAR being exceeded. Commissioner LaMotte said she could support the project.

M/s, Hamilton/Green, Motion to approve a request for a Use Permit, Combined Side Setback and Floor Area Ratio Variances to legalize a third story room addition and 204 square foot second story pantry/storage room expansion of a single-family residence at 14 Geary Avenue with the following amendment to Condition 6 and the addition of Condition 2c and Condition 7:

6. The applicant or owner shall defend, indemnity, and hold harmless the Town of Fairfax or it's agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval, which action is brought within the time period provided for in any applicable statute; provided however, that the applicant's or owner's duty to so defend, indemnity, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full evidentiary cooperation in the applicant's or owner's defense of said claims, actions, or proceedings;

Shall be amended to read:

6. The applicant or owner shall defend, indemnify and hold harmless the Town of Fairfax, its officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding.

7. That the window facing 18 Geary shall be eliminated.

A roll call took place:

AYES: Kehrlein, Green, Hamilton, LaMotte, Gonzalez-Parber
NO: Ketcham

Chair Ketcham announced the appeal rights.

8:05 p.m.

5. **760 Center Blvd.; Application # 14-06:** Request for a Use Permit and Design Review to demolish the existing 200 square foot kiosk and two drive-up window coffee cart enclosure to construct a 320 square foot, 4 window, drive-up structure with a 160 square foot canopy and 350 square foot trellis structure above a 500 square foot, landscaped,

outdoor seating area with fixed benches and countertops; Highway Commercial CH Zone District; Assessor's Parcel No. 002-131-13; Rich Dowd, applicant/architect; Rich Hall, owner; CEQA categorically exempt, § 15303(c).

Commissioner LaMotte recused herself because she had a professional association with the project and Senior Planner Neal presented the staff report. Ms. Neal provided background information on the site and she discussed the permits that would be necessary to demolish and construct a new coffee cart structure, provide signage and construct an outdoor seating area.

Ms. Neal explained why there were no setback requirements and she discussed the reasons why the Town Traffic Engineer had determined that the proposed changes would not generate sufficient additional trips to require a Traffic Impact Permit. However, he had determined that there might be potential for increased traffic collisions.

Ms. Neal discussed the Conditional Use Permit and the findings that needed to be made for its modification, which included the need for the project to comply with the design review criteria and for the signage to meet the code. She said that staff recommended the commissioners discuss the project, take public testimony and direct staff to provide a resolution with conditions of approval for review and approval at the March 20th meeting.

Commissioner Green discussed his concerns regarding the generation of traffic in the area and traffic circulation. In response, Planning Director Moore discussed the flow of traffic. He said it was the Traffic Engineer's opinion that the business would attract passing traffic, rather than generating additional trips. He said that this was the reason the Traffic Engineer had not required a Traffic Impact Report. Mr. Moore said that foot traffic and bicycle traffic had also been accommodated. Commissioner Green said that he supported the project in general.

In response to Commissioner Hamilton, Ms. Neal confirmed that sufficient parking existed.

Commissioner Gonzalez-Parber and Ms. Neal discussed the previous approvals in relation to the current requests.

Commissioner Hamilton discussed her concerns with Ms. Neal that the Town would have no redress should there be problems with traffic flow once the permit had been issued and the business was in operation. Ms. Neal noted that the Conditional Use Permit allowed the commissioners to review the permits, if necessary, once the business was in operation.

Mr. Moore discussed the project in relation to the new zoning law. He said that staff believed that findings could be made either to approve or deny the project. Mr. Moore said that staff had felt it prudent to bring the project forward for public discussion in light of the zoning changes and to seek direction from the commissioners.

Rick Carson, owner of Java Hut, discussed the reasons they wished to expand the business.

Rich Dowd, Architect, discussed the project. He said that the structure would be pre-fabricated with additional exterior materials, which he discussed. He also discussed the traffic issues and the drive-through windows in relation to traffic flow.

Vice-Chair Kehrlein and Mr. Dowd discussed construction in relation to the business. Mr. Carson said that they anticipated the construction period would be six weeks and that they would be using a trailer while the new structure was under construction.

Mr. Dowd provided the Commissioner with design materials.

Commissioner Gonzalez-Parber said that she loved the design. She discussed pedestrian circulation with Mr. Dowd in relation to a recent accident. Mr. Moore noted that the conditions of approval gave the Town the ability to request changes after the permit had been issued.

Mr. Dowd confirmed that they were working with the landscape architect to provide bicycle parking.

In response to Chair Ketcham, Mr. Moore discussed ADA (Americans With Disability Act) accessibility and compliance in relation to the project.

Chair Ketcham opened the public comment period.

Andy Peri, Marin County Bicycle Coalition, said that the Good Earth project had improved bicycle safety. He discussed traffic and bicycle safety issues in relation to the entrances, and he said that that he encouraged maximum improvements to maintain bicycle safety in the area. Mr. Peri urged the owners to provide more bicycle parking.

David Kroll, Fairfax resident, discussed his concerns that there will be insufficient parking.

Chair Ketcham closed the public comment period.

Commissioner Hamilton said that she liked the design and that provision will be made for people to gather. She discussed bicycle parking with Mr. Moore and food service with Ms. Neal, who confirmed that the County Health Department would review the plans. Ms. Neal confirmed that pre-packaged food, only, would be served and the business did not intend to become a restaurant but to remain a coffee shop.

Commissioner Green said that it was a lovely design.

Vice-Chair Kehrlein noted that the drive through use already worked on the site and that striping would help traffic circulation.

Commissioner Gonzalez-Parber expressed concern that insufficient information had been provided regarding the impact on air quality caused by additional cars idling as a result of the project expanding. In response, Mr. Moore noted that the drive-through traffic would increase but that the impact should be mitigated by a more efficient delivery service than was currently

provided. Furthermore, the additional business is expected from vehicles that would already be passing by the site, rather than attracting additional trips.

Chair Ketcham and Commissioner Hamilton discussed the way forward with Mr. Moore.

M/s, Hamilton/Gonzalez-Parber, Motion to approve the findings in the staff report and to continue the item to the meeting of March 20, 2014 for further public comment and action by the commissioners on the resolution.

AYES: All

Commissioner LaMotte returned to the podium.

9:25 p.m.

**MINUTES**

6. Minutes from the January 30, 2014 meeting.

Page 1: Commissioner Phillip Green corrected to Commissioner Philip Green.

Page 3: Paragraph referring to Planning Director' Moore's response to comments on 10 Olema, replace "project" with "application".

Page 3: Third paragraph from bottom to be amended to read:

".....Chair Hamilton noted that the parcel had been zoned to be consistent with the character of the Town of Fairfax, including its historical elements as articulated in the conservation element of the General Plan, as well as to supply affordable housing. She noted.....".

M/s, Green/Kehrlein, Motion to approve the minutes as amended:

AYES: All

**PLANNING DIRECTOR'S REPORT**

Planning Director Moore discussed a training course with the commissioners.

Mr. Moore noted that the new zoning map contained in the 2010/2030 General Plan should go into effect on April 4, 2014, and he noted that the Climate Action Plan had been accepted by the Town Council and adopted by resolution. He discussed the formation of the Climate Action Plan implementation committee.

Mr. Moore noted that meetings and reports had been archived on the Town's website.

Mr. Moore discussed the work program to create a Town Center Plan. He said that they hoped to deliver the final implementation plan to the Town Council in December. Mr. Moore discussed outreach with Commissioner Hamilton.

## DISCUSSION ITEMS

7. General Plan Matrix

Commissioner Hamilton and Planning Director Moore discussed the General Plan Matrix.

Mr. Moore noted that the Planning Commissioners would soon discuss the language changes to the code that related to Central Commercial and Planned Development District. Commissioner Hamilton and Mr. Moore discussed the provision of a list of ordinance changes that the commissioners previously discussed.

## ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Joanne O'Hehir