

Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, June 19, 2014

Call to Order/Roll Call

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

COMMISSIONERS PRESENT: Roxanne Ezzet
Esther Gonzalez-Parber
Philip Green
Shelly Hamilton
Brannon Ketcham (Chair)
Shelby LaMotte
Laura Kehrlein (Vice-Chair) (arr. 7:04 p.m.)

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

APPROVAL OF AGENDA

M/s, LaMotte/Green, Motion to approve the agenda:

AYES: Ezzet, Gonzalez-Parber, Green, Hamilton, Ketcham, La Motte
ABSENT: Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No-one from the public came forward to speak.

CONSENT ITEMS

1. **97 Crest Road; Application # 14-19 – is being removed from the agenda. See staff report for an explanation:** Request for a Ridgeline Scenic Corridor Permit and Use Permit to construct a 557.23 square foot, bedroom, bathroom and hallway addition to an existing 1,300 square foot single-family residence; Assessor's Parcel No. 002-181-18; Residential Single-family RS 6 Zone; Troy Luchessi, applicant/owner; CEQA categorically exempt, § 15301(e)(1).
2. **72 Monte Vista Way; Application # 14-20:** Request for a Use Permit to convert and expand a 678 square foot storage laundry area in an existing single-family residence into a 762 square foot recreation room bathroom and laundry room increasing the square footage of the structure from 2,268 square feet to 2,315 square feet; Dermot Whelan, applicant; Gary Anderson, owner; CEQA categorically exempt, § 15301(e)(1).

Commissioner Green recused himself because he lived within 300 ft of 72 Monte Vista.

M/s, LaMotte/Ezzet, Motion to approve Consent Items:

AYES: Ezzet, Gonzalez-Parber, Hamilton, Ketcham, LaMotte

ABSTAIN: Green

ABSENT: Kehrlein

Chair Ketcham read the appeal rights.

PUBLIC HEARING ITEMS

- 3. 1966 Sir Francis Drake Boulevard; Application 14-2 (modification):** for Design Review and modification of a previously approved Use Permit to convert 1,530 square feet of an existing commercial building to a combination of office, food preparation, cooking demonstration and retail use and to install 2 windows and 3 skylights; Assessor's Parcel No. 001-221-12; Central Commercial CC Zone District (may change back to Highway Commercial CH Zone District if Ordinance 778 is repealed); Morgan Hall, Architect/applicant; Mark Squire, owner; CEQA categorically exempt, § 15301(a).

Senior Planner Neal presented the staff report, when she provided background information on the project. She noted that the proposed modification to the original Use Permit would require the adoption of a new Resolution. She discussed the exterior changes that consisted of the addition of windows and skylights. Ms. Neal said that staff could recommend approval of the changes to the Use Permit and design, along with a request to change the hours of operation in order to hold events in the evening.

Ms. Neal and Commissioner Green discussed shipping containers in the vicinity of the building and Ms. Neal noted that a condition had not been proposed to have them removed. She also noted that a lot line adjustment would need to be approved if openings were added to a certain part of the building, which had also not been proposed.

Chair Ketcham and staff discussed the request for extended opening hours.

In response to Chair Ketcham, Morgan Hall, Project Architect, said that they were looking for more flexibility in opening hours to allow for cooking classes.

Commissioner Gonzalez-Parber discussed her concerns with Mr. Hall that the later opening hours might impact the neighborhood. Mr. Hall confirmed that there would not be additional lighting to that shown on the plans and that they would be applying for a sign permit, which might be illuminated.

Commissioner Green and Mr. Hall discussed deliveries, which Mr. Hall confirmed would be limited.

Chair Ketcham and staff discussed the Resolution.

Commissioner Ezzet and Mr. Hall discussed the number of visitors that could be expected should the retail/mixed use space and the museum both open late for separate events.

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

General discussion on the Resolution took place between the commissioners and the business owner was invited to speak.

Lisa Shanower, CEO of Miyoko's Kitchen, discussed the nature of the events for which they had requested extended hours of operation.

M/s, Ezzet/Gonzalez, Motion to approve Application 14-2, Resolution No.14-8, for Design Review and modification of a previously approved Use Permit to convert 1,530 square feet of an existing commercial building to a combination of office, food preparation, cooking demonstration and retail use and to install 2 windows and 3 skylights at 1966 Sir Francis Drake Boulevard with the following amendments to the Resolution:

That Condition 13 relating to indemnification shall be amended to read as follows:

That Condition 16 relating to other agencies be renumbered 15; and

New Conditions:

16. Deliveries shall be limited to _____
17. The commercial kitchen hours shall be from _____
18. The office/retail/demonstration kitchen may stay open until 10 p.m. three days per week.
19. A new wood-burning oven may not be installed.

That a finding was made that the demonstration kitchen would not be expected to generate significant amounts of traffic and noise.

AYES: All

Chair Ketcham read the appeal rights.

4. **6 Bridge Court; Application # 14-15:** Continued consideration of a Use Permit, Variances and Design Review of a remodel/expansion of a 1,386 square foot, three bedroom, 1 bath single-family residence into a 1,753 square foot, 3 bedroom, 3 bath residence increasing the structure square footage by 367 square feet and raising the finished floor elevation of the existing portion of the house and increasing the height of the house by 5 feet; Residential RD 5.5-7 Zone; Assessor's Parcel No. 002-105-13; Rich Rushton, Rushton-Chartock Architects, applicant; Lee Mac Pherson and Rae Gordon, owners; CEQA categorically exempt, §§ 15301(a), (e)(1) and 15305(a).

Senior Planner Neal presented the staff report. Ms. Neal explained that the structure was in the flood zone and that the request had been made to raise the floor elevation and overall height (which required a Variance), in order to raise the structure out of the flood plain. She noted that the project constituted a 50% remodel, which therefore required Design Review, and that, since the lot did not meet the minimum size and width requirements based on the slope, a Use Permit had been requested. Ms. Neal also discussed the necessity of a Parking Variance in order to bring parking into compliance. She noted that staff believed sufficient space existed between the parking space and the neighboring property in order to meet the intent of the law.

Ms. Neal discussed design review, which included techniques to minimize massing and the preservation of the neighbor's privacy by the replacement of larger windows with smaller windows. Ms. Neal said that staff believed the project's design elements met the criteria in the Ordinance and that they could, therefore, recommend approval based on the findings and conditions in the staff report.

Chair Ketcham and Ms. Neal discussed the proposed height increase in relation to the downslope lot.

In response to Vice-Chair Kehrlein, Ms. Neal clarified certain pages of the plans.

In response to Commissioner Hamilton, Ms. Neal discussed the setback between the neighbor's house and the parking space.

Rich Rushton, Architect, noted that they would be expanding a bedroom office upstairs, removing office space and adding a kitchen downstairs. He confirmed that they would be moving the structure further away from the creek.

Commissioner Gonzalez-Parber discussed the windows with the architect.

Chair Ketcham opened the public comment period.

Dustin Liebman, Dominga Avenue, who also represented Laura Kenton and Grahame Kenton of Dominga Avenue, expressed his concern with the proximity of the addition to their house, the length of time the remodel would take, and a top floor window that might cause privacy issues. Mr. Liebman requested that the item be continued to a date when the Kentons could attend the hearing.

Senior Planner Neal noted that action needed to take place this evening due to the Permit Streamlining Act. Ms. Neal discussed the bathroom window that concerned the Kentons.

Chair Ketcham closed the public comment period and noted that the window concerned was a clerestory window to let in light. Mr. Rushton said that they could move the window to a different wall and confirmed that the project should take approximately four and a half months to build.

Planning Director Moore discussed the hours of standard construction times and there was general agreement that the project should adhere to those times.

Commissioner LaMotte said that it was a great design and that she supported the project.

Commissioner Green said that the design should be a model for other creek side homes similarly situated.

Vice-Chair Kehrlein echoed the comments of the previous commissioners and Chair Ketcham commended the architect for moving the structure further away from the creek.

M/s, LaMotte/Gonzalez-Parber, Motion to approve Application # 14-15 for a Use Permit, Variances and Design Review of a remodel/expansion of a 1,386 square foot, three bedroom, 1 bath single-family residence into a 1,753 square foot, 3 bedroom, 3 bath residence increasing the structure square footage by 367 square feet and raising the finished floor elevation of the existing portion of the house and increasing the height of the house by 5 feet at 6 Bridge Court with the following additional Conditions of Approval:

Condition 10: The neighbors at 93 Dominga and the applicant and their architect shall meet to discuss whether the upstairs bathroom widow should be moved to a different side of the structure or that frosted glass be used in the same location;

Under 2a, a bullet point shall be added that stipulates the estimated completion time of the project, which must be in a timely fashion.

AYES: All

Chair Ketcham read the appeal rights.

5. **1 Arrowood Lane; Application # 14-22:** Request for a Hill Area Residential Development and Excavation Permits, and Design review of a 3,327 square foot single-family residence with a 600 square foot detached garage; Assessor's Parcel No. 174-290-01; Residential Single-family RS 6 Zone District; Monica Ream, Aleck Wilson Architects, applicant; Dale Van Fossan, owner; CEQA categorically exempt, § 15303(a) and 15303(e).

Senior Planner Neal introduced the staff report, when she discussed the Superior Court case that regulated building in the Arrowood subdivision. Ms. Neal discussed the agreement that was reached, which included the establishment of the building envelopes for the various homes within

the subdivision and the allowable living space square footages. However, she noted that the project still needed to comply with the Town's height requirements, and parking and lighting regulations.

Ms. Neal discussed the requested Excavation Permit, which the Town Engineer had determined could be approved because he believed the improvements could be made without negatively impacting the surrounding properties and the public. Staff recommended approval of the Resolution with the removal of part of the condition that related to the swimming pool and the addition of a further condition of approval that related to compliance with other agencies.

Commissioner Green and Ms. Neal discussed the project in relation to the Hill Area Residential Permit and Excavation Permit. Ms. Neal noted that the Town Code missing on page 5 of the staff report was 12.20.080(b).

Commissioner Ezzet and Planning Director Moore discussed the different house designs in the subdivision.

Commissioner Green expressed concern that tree removal might be necessary. He discussed adding a condition that related to the financing of the project, which Mr. Moore said would be inadvisable.

Dale Van Fossan, owner and builder, said that his future home would blend into the hillside but that he did not wish it to emulate other designs in the neighborhood. Mr. Van Fossan said that they hoped not to remove a bay tree, which might need to be removed.

In response to Chair Ketcham, Mr. Van Fossan discussed the downward lighting that appeared on the plans.

Vice-Chair Kehrlein said it was a fabulous design, with which Commissioner Ezzet concurred.

Commissioner Gonzalez-Parber said that she would prefer to see a gabled roof, which she discussed with Mr. Van Fossan.

Chair Ketcham opened the public comment period.

Bob Anderson, 4 Arrowood, said that he and their neighbors appreciated the owner's efforts to clear the land of broom. He commented on the design, which he said they favored.

Chair Ketcham closed the public comment period.

Commissioner Green said that the structure was one of the more beautiful designs he had seen and that it would blend into the hillside.

Commissioner LaMotte commented on the site and commended the landscape plan.

M/s, Kehrlein/LaMotte, Motion to approve Application # 14-22, a request for a Hill Area Residential Development permit and Design review of a 3,327 square foot single-family residence with a 600 square foot detached garage at 1 Arrowood Lane:

AYES: All

Chair Ketcham read the appeal rights.

6. **73 Willow Avenue; Application # 14-24:** Request for a Use Permit and Parking Variance to legalize an unpermitted 351 square foot residential second unit contained in the basement of an existing 1,113 square foot residence; Assessor's Parcel No. 001-204-41; Residential RD 5.5-7 Zone; Maria Allis, applicant/owner; CEQA categorically exempt, § 15301(a), 15301(e)(1) and 15303(a).

Senior Planner Neal presented the staff report. She discussed the second unit, which she noted had been built in a portion of the garage. Ms. Neal said that the owner lived in the main residence, which conformed to the Second Unit Ordinance regulations that the owner must reside in the primary residence or second unit. However, she noted that a size exception had been requested because the size of the second unit exceeded the 30% maximum allowable size of the main residence, but that it did not exceed the maximum allowable space of 700 square feet. Ms. Neal said that the size met the intent of the Ordinance to keep the unit small and, thus, staff could support a variance.

Ms. Neal discussed parking in relation to the Ordinance. She said that the applicant had requested an exception to the parking regulations to allow tandem parking and parking in the side yard setback in order to meet the parking requirements.

Ms. Neal said that staff recommended approval of the project based on the findings and conditions in the staff report with the additional condition that a gravel driveway should be denied in favor of a different permeable material, and the addition of the standard condition that the conditions applied by other agencies could be waived on written consent to the Town.

Commissioner LaMotte requested that the Public Works Director be asked to use his discretion to allow part of the driveway to be graveled.

Commissioner Gonzalez-Parber and Ms. Neal discussed the drawings, which Commissioner Gonzalez-Parber said she found confusing. Ms. Neal said that the Planning Department did not necessarily hold homeowners to the same standards as design professionals when submitting plans. They discussed parking.

Planning Director Moore said that staff believed the plans had included sufficient information and that their main concern had been to encourage owners of illegal second units to comply with the town's policies on second units.

Maria Allis, owner, discussed their gravel driveway. She noted that members of her family occupied the second unit.

Commissioner Green commented on the project having been constructed without permits, and Ms. Allis said that they had not understood that they were doing any wrong.

Chair Ketcham opened and then closed the public comment period when no one came forward to speak. He said that he felt comfortable with staff undertaking the building inspections. Chair Ketcham commented on the need for covered parking, which he thought did not add anything to the project, and he confirmed that he could support the parking variance in order to provide on-site parking.

Commissioner Ezzet noted that affordable housing was needed and that the applicants were taking steps to comply with the regulations. She discussed her concern regarding the overall effect on neighborhoods should more applications come forward for second units that did not meet the size requirements.

General discussion on second unit size took place. Vice-Chair Kehrlein said that the second unit seemed too large and she used size comparisons from other cities. Ms. Neal said that the second unit could not be considered to be part of the main residence because a second kitchen would not be allowed.

Chair Ketcham expressed his concern with the planning commission's choice between approving the Resolution or requiring the removal of the unit if the application were denied.

Ms. Neal discussed the Second Unit Ordinance in relation to the project and the waiving of the requirement for covered parking in relation to the findings.

M/s, LaMotte/Ezzet, Motion to approve Application # 14-24, a request for a Use Permit and Parking Variance to legalize an unpermitted 351 square foot residential second unit contained in the basement of an existing 1,113 square foot residence at 73 Willow Avenue with the following additional conditions of approval:

11. The parking area shall include a hardened apron of a depth to be determined by the Public Works Department.
12. All conditions of agencies with jurisdiction over the project must be complied with unless that agency waives one or more of them in writing to the Town. **(THIS IS VERY SIMILAR TO CONDITION NO. 5 IN THE STAFF REPORT).**

A roll call took place.

AYES: Green, Ezzet, Ketcham, Hamilton, LaMotte
NOES: Kehrlein, Gonzalez-Parber

Chair Ketcham announced the appeal rights and a 10-minute break at 9:45 p.m.

MINUTES

7. Minutes from the May 15, 2014 meeting.

M/s, Hamilton/Gonzalez-Parber, Motion to continue the minutes from May 15, 2014 to the next meeting due to them being incorrectly noticed.

AYES: All

PLANNING DIRECTOR'S REPORT

Planning Director Moore discussed a meeting held by the Chamber of Commerce to which he had been invited to discuss the General Plan and Housing Element.

Mr. Moore said that Council had directed staff to prepare a General Plan forum to take place at 1 p.m. on Saturday, July 12th, and that a professional facilitator would facilitate the proceedings.

Mr. Moore said that the disposition of the petition regarding repealing Ordinance 778 would be discussed at the Council's meeting on July 2nd. They will discuss the recommendation made by the Planning Commission not to repeal the Ordinance or will consider whether the ordinance should be repealed and put on the ballot.

Commissioner Hamilton and Mr. Moore discussed noticing the public forums.

DISCUSSION ITEMS

8. Zoning Ordinance: Issues list creation/update

Following the evening's discussions, carports, parking and gravel driveways were added to the Zoning Ordinance list.

General discussion on the prioritizing of tasks took place and there was general consensus that staff should concentrate on revising the Housing Element. Mr. Moore discussed the timeline for the Housing Element in relation to the development of affordable housing in Fairfax.

Mr. Moore reported that he had been appointed to the Technical Advisory Committee to the Transportation Authority of Marin. He discussed a grant that they had been awarded.

Chair Hamilton and Mr. Moore discussed the Housing Element omissions, inconsistencies and errors that needed to be corrected. Mr. Moore said that the process would start with the public forum, after which a comprehensive list of what needed to be amended would be made and presented to the Council.

In response to Commissioner Green, Mr. Moore confirmed that a consultant would be addressing the questions raised by the public at the last Planning Commission meeting regarding the repeal of Ordinance 778.

ADJOURNMENT

A motion was made, seconded and approved to adjourn the meeting at 10:35.

Respectfully submitted,

Joanne O'Hehir