

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, December 16, 2010

Call to Order/Roll Call:

COMMISSIONERS PRESENT: Morgan Hall
Shelley Hamilton (Vice-Chair)
Brannon Ketcham (Chair)
Shelby LaMotte
Pam Meigs

COMMISSIONERS ABSENT: Peter Lacques
Peter Ramsay

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

Chair Ketcham called the meeting to order at 7.35 p.m.

APPROVAL OF AGENDA

M/s, Hamilton/Meigs, Motion to approve the Agenda as presented.

Ayes: All

PUBLIC COMMENT ON NON-AGENDA ITEMS

No one from the public came forward to speak.

CONSENT ITEMS

1. **162 Forrest Avenue;** Application # 10-36 Request for a use permit to legalize the conversion of a storage area underneath an existing garage/parking deck into an office with a half bathroom; Assessor's Parcel No. 002-191-33; Residential Single-family RS 6 Zone; John and Susan McConneloug, applicants/owners; CEQA categorically exempt, § 15303(e). ***Staff recommends a continuance in order to re-notice and perform a site inspection.***

2. **77 Porteous Avenue;** Application # 10-32 Request for a use permit to legalize the conversion of the storage structure into an office; Assessor's Parcel No. 002-082-26; Residential RD 5.5-7 Zone; Scott Hurd, applicant/owner; CEQA categorically exempt, § 15303(e).

M/s, LaMotte/Hamilton, Motion to approve the Consent items:

AYES: All

Chair Ketcham read the appeal rights for 162 Forrest Avenue.

PUBLIC HEARING ITEMS

3. 2040 Sir Francis Drake Boulevard; Application # 08-39 A Traffic Impact Permit, Mitigated Negative Declaration, Use Permit and Parking Variance to have no covered parking and a Height Variance for a three story, 8 dwelling unit, mixed use residential/commercial development with a total of 12,840 square feet; Assessor's Parcel No. 002-183-04; Highway Commercial CH Zone District; Naaim Karkabi, applicant/owner; Jeff Kroot, Architect; A Mitigated Negative Declaration and Initial Study have been prepared and circulated for the project.

Planning Director Moore presented the Staff report. He noted that a Traffic Impact Permit, Mitigated Negative Declaration, Use Permit and Parking Variance would be necessary in order to approve the project. He discussed the project, which included seven residential units, and not six as indicated on the plans. Mr. Moore discussed the application process, including the erection of story polls.

Mr. Moore went on to discuss the processes which involved the Mitigated Negative Declaration and Initial Study. He explained how the project related to the General Plan and noted that the zoning was designated Highway Commercial, which staff believed would not be suitable for residential units for reasons he discussed. Mr. Moore explained the need for a Conditional Use Permit.

Mr. Moore explained why staff believed the orientation of the building and the design were unsuitable for the space. He noted that the project did not significantly enhance the immediate area, which contradicted the General Plan and scenic highway policy for reasons he explained.

Mr. Moore discussed height restrictions. He noted that the project met the Town Code's building height limit but that a height variance would be necessary because the project exceeded the Town's 2-story limit. He discussed the reasons staff believed that findings did not exist to grant the variance for a 2-story project.

Mr. Moore went on to discuss the grading permit and the Traffic Impact Study, which determined that there would be less than significant traffic impact if the project were approved. He noted that the project complied with the total number of parking spaces required.

Mr. Moore discussed the design. He said that there would be a long, unbroken wall close to the neighboring property, which would be monotonous and might affect the development of the neighboring site.

For the reasons discussed and which were laid out in the staff report, Mr. Moore said that staff recommended approval of the Resolution denying the project. However, he noted that there were letters of support for the project and spoke about his concern that background analyses on the project could become obsolete due to the length of time since the project began. He discussed the final draft General Plan, which should be instigated in approximately one year that would have affected the project were it already in existence. He noted that it would have rendered the EIR and traffic reports unnecessary for reasons he explained.

Commissioner Meigs discussed her concerns with sanitary issues, which Mr. Moore said would be dealt with during the Building Permit process. Commissioner Meigs and staff discussed the planning process. Ms. Neal noted that staff had recommended a 2-story building to comply with the Town's code and that the design had not changed significantly from the original plans.

Commissioner Hamilton and Mr. Moore discussed the Fire Department's recommendations. He noted that if they required significant changes, the project could be brought before the Commissioners with the modifications.

Commissioner LaMotte and Mr. Moore discussed the height variance.

Commissioner Hall and Mr. Moore discussed permitted uses of a second floor in relation to the zone.

General discussion took place between staff and Commissioners on the shared parking analysis, following which the applicant was invited to speak.

Jeff Kroot, project architect, discussed the project in relation to the Fire Department's recommendations. He believed their concerns were minor, including a back window which they had enlarged. He discussed their concerns in relation to the walkway and he provided materials to the Planning Commissioners that he had given to the Fire Marshall. He said that he believed he had resolved the Fire Marshall's issues.

Mr. Kroot said that he had met with the staff of St. Rita's Church and he provided to the Planning Commissioners materials that related to that meeting. He noted that they supported the project in general and he presented to the Commissioners further letters of support.

Mr. Kroot discussed the changes that had been made since the original design had been discussed with staff. He said that the design took advantage of the sun and views of Mt. Tamalpais, that the project would be energy efficient. He said that landscaping would be incorporated to soften the side of the building. He discussed the project in relation to affordable housing and noted that parking would be limited if it were relocated behind the building and that it would affect DeLano's Market. Mr. Kroot also discussed the reasons

that carports would be awkward to place and he noted that the increase in traffic caused by the project would be insignificant.

Mr. Kroot addressed the Police Department's concerns. He said that they could install a gate behind the walkway to prevent vandals and unwanted individuals from gaining access to the commercial spaces. He noted that the project would offer affordable, quality housing in walking distance of downtown.

Commissioner Meigs and Mr. Kroot discussed rental income and the history of the project in relation to a 3-story structure. Mr. Kroot said that they wanted to push the building away from Sir Francis Drake Blvd and create residential units above ground level.

Chair Ketcham and Mr. Kroot discussed the project in relation to a Mixed Use Overlay District. Mr. Kroot said that it was hoped that the benefit to the community of the project would be sufficient grounds in order to grant a variance for a third floor.

Vice-Chair Hamilton and Mr. Kroot discussed the special circumstances that might allow a height variance to be granted. Mr. Kroot noted that affordable housing or apartments had not been built for decades in town.

Mr. Moore noted that the formal application for the project did not include affordable housing or related rental income analyses. He discussed the Town's policy toward affordable housing that would be included in the General Plan update and the reasons this project would not meet the criteria.

Commissioner Hall and Mr. Kroot discussed the lack of covered parking.

The applicant, Mr. Karkabi, provided background information on the project. He said that he would be providing affordable rental property which would serve the community.

Dennis DeLano, grocery store operator, discussed the reasons the planned location of the building would be more beneficial to the grocery store than if it were moved towards Sir Francis Drake Blvd.

Marti Curran, 118 Marinda Drive, said that unresolved issues had not been addressed and that most of her neighbors were unaware of the meeting. She discussed the reasons she believed that traffic would be impacted by the project.

Gary Kleiman, Manor Road, said that there was a shortage of accommodation in Fairfax and that the design was beautiful. He said that it would serve the Town by providing more walk-to places and that he supported the project.

Gary Andrews, Oak Manor Drive, discussed the geological features of the site.

Diane Hawthorne, Porteous Ave, said that the building would block the views of the hills; that the building would be too tall and that the 2-story limit made Fairfax special.

Mimi Newton, Mono, Chair of the Open Space committee, expressed her concern that the imposing structure would affect views.

Ruth Horn, Upper Ridgeway, agreed that the structure would block views and that it was not a good fit in the neighborhood.

Whitney Marchant, former Fairfax Resident, member of the Greenbelt Alliance, said she was an advocate of affordable housing. She discussed the reasons that commercial and residential projects should be encouraged and she discussed a deed restriction in relation to an affordable unit fund.

Valerie Hood, Dominga Avenue, expressed concern that the scenic corridor would be affected by the new project and she said that she had fought hard against 3-story structures.

Candace Killman, Spruce Road, said that the building would create a looming effect because it would be too close to the road. She believed it would be too high, would not be well sited and that traffic would be too congested.

Sean McGuire, Scenic Road, said that the story polls indicated that the building would be too large, that the location was unsuitable and that that it would block views.

Scott Hochstrasser, Glenn Drive, said that the project bore the makings of a deal and that he did not believe the project should be denied. However, he said that a 2-story design would be more suitable.

Tim Ezekiel, Sequoia Road, said that there was a shortage of housing and the project would encourage the pedestrianization of the town. He noted that any building on the lot would block some view and that the advantages of such a project outweighed the negative aspects.

Chair Ketcham closed the hearing to the public and announced a 10-minute break at 10 p.m.

Chair Ketcham opened the hearing to the public to allow the applicant to respond to the comments made during the public comment period. Mr. Kroot said that a constructed building would look better than the story polls suggested and that it had not been suggested that the building be brought towards Sir Francis Drake Blvd.

Mr. Karkabi said that he would work with the citizens of town, following the comments made by members of the public.

Chair Ketcham closed the public comment period.

In response to Commissioner LaMotte, Mr. Moore said that financial hardship did not qualify as an exception to allowing a height variance for three stories, even though the height restriction had been met. He addressed the approach to affordable housing that was envisaged by the town and the zoning ordinance.

Commissioner Hall applauded the aims of the project but said that the design was not necessarily the right solution for the lot. He expressed concern that egress on the third floor would be very difficult if the building were on fire. He said that rotating the building to face the street would make more sense and that a streetscape of the sides of buildings should not be encouraged.

Vice-Chair Hamilton said that the applicant seemed to have every intention of working with the Fire Department to make the building safe but that it appeared the findings did not exist to approve a third story. She said that an exception could not be made to approve a 3-story building.

Commissioner Meigs said that she believed the project would block some of the view and so she would favor a lower structure; that the orientation of the building did not suit the character of the town or the lot, and that the safety issues were huge. Commissioner Meigs said she would not support the project.

Chair Ketcham said that a 3-story structure downtown presented a character issue, rather than a height issue. He noted that they needed to work within the constraints of the existing code and that there had never been any consideration of allowing a 3-story building in this zone during the process of the General Plan Update. Chair Ketcham said that it could set a precedent for prospective applications and that, furthermore, jumping from a deck was not the right evacuation plan.

Planning Director Moore said that the background studies on the project were approaching the end of their usefulness. He said that he had hoped a more complementary design would have been presented to the Commissioners, which he had conveyed to the applicant. Mr. Moore said he would recommend that the Planning Commission make a decision on whether to approve or deny the project.

Mr. Kroot requested a continuance.

Commissioner Hamilton and staff discussed the difference between a continuance and a denial. Mr. Moore discussed the project in relation to the possible adoption of the General Plan Update in approximately a year's time.

M/s, Meigs/Hall, Motion to adopt Resolution No. 10-07, recommending that the Fairfax Town Council Deny a Use Permit, Parking Variance and Height Variance for a proposed 12,840 square foot, eight (8) dwelling unit, Mixed Use Residential/Commercial Development with a total of 12,840 Square Feet based on the findings contained in that Resolution.

A roll call was taken:

Hamilton: Aye
Ketcham: Aye
Meigs: Aye
Hall: Aye
La Motte: Aye

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

ELECTION OF NEW CHAIR AND VICE CHAIR

M/s, Hamilton/Lamotte, Motion to elect Chair Ketcham for a second term:

Ayes: All

M/s, Lamotte/Hall, Motion to elect Vice-Chair Hamilton for a second term:

Ayes: All

Chair Ketcham read the appeal rights.

ELECTION OF TREE COMMITTEE MEMBER AND ALTERNATE

M/s, Meigs/Hamilton, Motion to elect Commissioner Hall to the Tree Committee for a one-year term.

Ayes: All

M/s, Hall/LaMotte, Motion to elect Commissioner LaMotte as Alternate to the Tree Committee for a one-year term.

Ayes: All

Chair Ketcham read the appeal rights.

DISUSSION ITEMS

There were no discussion items scheduled for this meeting.

PLANNING DIRECTOR'S REPORT

Planning Director Moore said that he would ask the Town Council at their January 12, 2011 meeting to create a Climate Action Committee, which was called for in the General Plan.

Mr. Moore discussed the moratorium on medical marijuana dispensaries in relation to the Ordinance.

APPROVAL OF MINUTES

4. Review of the minutes from the meeting of November 18, 2010.

M/s, Hall/LaMotte, Motion to approve the minutes from the Meeting of November 18, 2010:

Ayes: All

COMMISSION COMMENTS AND REQUESTS

Commissioner Meigs discussed the process involved in choosing a Planning Commissioner, which she said was not acceptable. She said that the process used by Ross Valley Sanitary District would be more appropriate.

Commissioner LaMotte thanked the Commissioners and staff for the way the previous project heard this evening had been dealt with.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 11.15 p.m.

Respectfully submitted,

Joanne O'Hehir