

DRAFT Town of Fairfax Planning Commission minutes
Fairfax Women's Club
Thursday, June 17, 2010

Call to Order/Roll Call:

COMMISSIONERS PRESENT: Terry Goyon
Brannon Ketcham (Chair)
Peter Lacques
Pam Meigs
Shelby LaMotte
Peter Ramsay

COMMISSIONERS ABSENT: Shelley Hamilton (Vice-Chair)

STAFF PRESENT: Jim Moore, Planning Director
Linda Neal, Senior Planner
Inder Khalsa, Assistant Town Attorney
Joanne O'Hehir, Minutes-Secretary

Approval of the Agenda

Senior Planner Neal stated that the applicant for the consent item concerning 263 Bolinas Road had requested that it be moved to the Public Hearing Items for discussion.

M/S, Goyan/Ramsay, Motion to approve the amended agenda:

AYES: All

Public Comments on Non-Agenda Items

George Biancini, former owner Broadway Video, said that the site of the former store was actively being marketed for rent. He said that he believed it might cause a litigation process, which might affect the Town.

In response to Planning Director Moore, Mr. Biancini said that he had already addressed the Town Council.

Consent Item

1. **403 Forrest Avenue; Application # 10-12: Request for a Use Permit to construct a 45 square foot addition to an existing 1,804 square foot single-family residence; Assessor's Parcel No. 002-091-03; Residential RD 5.5-7 Zone; Nick Ryan, applicant; Herbert Yarmo and Patricia Connolly, owners; CEQA categorically exempt, § 15301(e)(1).**

M/S, Goyan/Ramsay, Motion to approve the Consent Item.

AYES: All

2. **263 Bolinas Road; Application # 10-13: Request for a Use Permit and Variances to replace an existing open sided shed and a storage structure in the Creek Setback with one, 370 square foot storage structure; Assessor's Parcel No. 002-024-13; Residential RD 5.5-7 Zone; Rich Dowd, Architect; Sandy Gartzman and Jack Judkins, owners; CEQA categorically exempt, § 15303(e) and 15305(a).**

Senior Planner Neal presented the staff report. Ms. Neal noted the plans showed that an existing storage shed would only be removed if the cost of the project did not prohibit its removal.

Commissioner Lacques joined the meeting at 7.37 p.m.

Ms. Neal explained that staff had believed both shed structures would be removed, one of which was entirely in the creek setback, the other partially in the creek setback. She said this was the reason staff had recommended approval of the project, which included the construction of a different shed that would still partially encroach the creek setback. Ms. Neal noted that the project could comply with the setbacks.

Rich Dowd, project architect, said that their primary concern was to get the wall rebuilt to stabilize the creek bank. He noted that the new shed would need a sprinkler system because it would be in a UWI (Urban Wildland Interface) -designated area, and would need a new water meter which would increase the cost of the project. Mr. Dowd said that the owners would like to remove the existing shed to increase their view but that the cost would be too expensive.

Commissioner Meigs and Mr. Dowd discussed the cost of shed removal.

Commissioner LaMotte joined the meeting at 7.45 p.m.

Planning Director Moore said that staff would recommend a continuance to allow them to review new plans that showed both the existing shed and the new shed. Mr. Moore noted that it was not staff's intention to allow another structure to encroach the creek setback.

Mr. Moore discussed the plans with Chair Ketcham.

Mr. Dowd discussed the conditions of approval and he noted that the owners would like power for the interior of the shed and exterior illumination.

Mr. Dowd discussed the survey and Ms. Neal noted that the requirements for a survey might change if the plans were redrawn.

Commissioner Meigs and Mr. Dowd discussed exterior lighting, and Ms. Neal suggested that he add electrical details to the plans if the project were continued.

M/S, Ramsay/Meigs, Motion to continue a request for a Use Permit and Variances to replace an existing open sided shed and a storage structure in the Creek Setback with one, 370 square foot storage structure at 263 Bolinas Road.

AYES: All

Public Hearing Items

3. **6 School Street Plaza Suite 210; Application 97-UP-2: Continued consideration of a request for a modification of a previously approved Use Permit for a medicinal marijuana dispensary to allow for the (1) operation of a delivery service, (2) the propagation and sale of clones, (3) an amendment to the conditions allowing for location of a grow site run by the dispensary within the Town limits, and (4) the elimination of a series of specific conditions in the existing conditional use permit; Assessor's Parcel No. 002-112-13; Limited Commercial CL Zone; Lynette Shaw, Marin Alliance for Medicinal Marijuana, applicant; Fred Ezazi, property owner; CEQA categorically exempt, § 15301(a).**

Planning Director Moore presented the staff report. Mr. Moore discussed the conclusions of the previous hearing and the information that staff had been requested to provide. He noted that a draft resolution had been included which the Commissioners might wish to consider. Mr. Moore discussed staff's recommendations and the findings to support the project, which included extended hours of operation, permission to sell clones and records maintenance. He noted that the Commissioners did not have jurisdiction to allow a grow site unless a specific site in Fairfax had been identified. Thus he would recommend denial of the applicant's request to operate an unspecified grow site within the town's limits.

Mr. Moore discussed errors that existed in the list of conditions and the reasons they remained. He noted that no changes had been made to the conditions beyond those he had been instructed to change by the Commissioners at the previous meeting.

Commissioner Meigs and Assistant Town Attorney Khalsa discussed the amount of time Counsel had spent on the project.

Mr. Moore noted that staff's recommendation had been to deny the delivery service but noted that a resolution had been drawn up by staff, at the Commissioners' request at the last meeting, to include a delivery service. He confirmed that staff still deferred to the opinion of the Police Department and did not support a delivery service.

Commissioner Lacques and Ms. Khalsa discussed insurance and Ms. Khalsa noted that it was usual for businesses that conducted business with the town to carry \$1M of insurance.

Following discussion between Ms. Khalsa and Commissioner Goyan, a minor amendment was made to Condition 13. They discussed Condition 19.

There was general agreement to add "...on request during dispensary business hours" to Condition 36.

In response to Commissioner Meigs, Ms. Khalsa noted that written regulations for a delivery service did not exist. They discussed indemnification against the Town, which Ms. Khalsa noted would need to be reviewed by the Town Council as a condition of approval.

Mr. Moore stated that Councilmember Bragman had suggested the additional condition of approval that drivers and delivery personnel should have criminal background checks, to which there was general consensus amongst the Commissioners.

Lynette Shaw, applicant, said that she agreed with the conditions of approval with the exception of Condition 18 that related to the medical marijuana site. She said that she was in agreement with limiting the amount of medical marijuana that could be carried in the delivery vehicles to 16 oz, and would agree that the maximum value of goods carried by the vehicles would be \$5,000 for each journey.

Discussion took place between Counsel and the Commissioners on the value of goods and the amount that could be carried in a delivery vehicle. Ms. Khalsa suggested capping the value of products carried and Chair Ketcham noted that more trips would be necessary if the amount of medical marijuana was too strictly limited.

Commissioner Meigs said that she would support the Police Department and would not support a delivery service.

Commissioner Lacques and Ms. Khalsa discussed the purchase and delivery of clones.

Commissioner LaMotte proposed that the value of the product should limit the amount carried and not the number of clones.

Following discussion, there was general consensus amongst most of the Commissioners that no more than 16 oz of medical marijuana, \$2,500 of products and \$2,500 in cash could be carried at any one time by a delivery vehicle.

There was general agreement that background checks should be undertaken for delivery drivers and helpers and Condition 33 was amended accordingly.

Ms. Khalsa discussed indemnification amounts.

Commissioner Meigs discussed the reasons why she did not support a delivery service, which related to safety.

Chair Ketcham said that a great deal of consideration had been made and the applicant would like to operate in a manner that was different from what was happening elsewhere. He said that he was torn, but illegal delivery services were ongoing and he would support the applicant, who was upfront and not trying to hide the service she hoped to provide.

Commissioner Goyan said he would support the delivery service, having considered it carefully, and that he hoped there would be no problems.

Commissioner LaMotte said that her decision to support a delivery service was not made lightly. She believed they had a responsibility to the community to bring the issue into the light and make it a regulated activity. She noted that unregulated services appeared to be operating with abandon and the Town should set an example on how it could be regulated with conditions.

Commissioner Ramsay noted that they could not continue rehashing the conditions because all the Commissioners did not feel comfortable with each one. He said that he felt the new proposed conditions represented a general consensus of the conclusions drawn by the majority of the Commissioners after discussion.

Discussion took place on Condition 57 that related to allowing adolescents into the dispensary. Commissioner Lacques discussed the reasons he did not support this condition, and the reasons he believed that the amount of medical marijuana that could be transported should be further limited.

Chair Ketcham noted that the adolescents who could enter the dispensary would be patients.

Commissioner Meigs discussed the reasons she did not support a delivery service and said that she had hoped the request for a delivery service and expansion of the business operation could be separated.

Ms. Khalsa said that the reasons for not separating the delivery service and business expansion had been discussed; that by connecting the delivery service to the property use, it would not be necessary to adopt an Ordinance to allow a delivery service. Furthermore, there had been concerns that the flood gates would be opened to other applications for a delivery service that were not based on properties in the town with a long-standing history.

M/S, Goyan/Ramsay: Motion to accept Resolution 10-05 to modify a previously approved Use Permit for the medicinal marijuana dispensary at 6 School Lane, with the amendments made to Exhibit A at the meeting of June 17, 2010.

AYES: Ramsay, Goyan, Ketcham, LaMotte

NOES: Lacques,

ABSTAIN: Meigs.

Chair Ketcham read the appeal rights.

Commissioner Meigs recused herself

Chair Ketcham announced a 15-minute break at 9.30 p.m.

Discussion Items

4. Final consideration and/or editing of the draft Noise Element; and possible adoption of Resolution No. 10-04 forwarding the draft Noise Element on to the Town Council for further consideration.

Planning Director Moore presented the staff report and he noted that GPAC (General Plan Advisory Committee) had approved the Draft Noise Element in one meeting with minor amendments. He discussed how the element was compiled.

Commissioner Ramsay identified two minor amendments.

Commissioner Lacques led a discussion on noise impacts. He suggested a map be drawn up identifying parcels that would most need noise mitigation measures during construction, but Mr. Moore noted that staff lacked the time to undertake such a project. Mr. Moore discussed how applicants would be advised what noise mitigating measures would be needed during building construction.

General discussion took place on “quiet pavement” and on construction noise.

In response to Commissioner LaMotte, Mr. Moore noted that the noise mitigating measures could only be instigated when the General Plan was approved.

Chair Ketcham suggested that noise mitigation measures could be used as conditions of approval provided findings could be made.

Chair Ketcham noted that the Resolution should be amended to show that adoption took place on June 17th, 2010, and Commissioner Lacques said that he supported the Draft Noise Element.

M/S, LaMotte/Lacques, Motion to adopt Resolution Number 10-04 forwarding the draft Noise Element on to the Town Council for further consideration

Ayes: All

Planning Director’s Report

Planning Director Moore noted that only the Housing Element and Conservation Element remained for discussion.

There was general consensus that the Planning Commission Meeting of July 1, 2010, would be continued to July 8, 2010.

Approval of Minutes

5. Review of the Minutes from the Meeting of May 20, 2010

M/S, LaMotte/Lacques, Motion to approve the minutes of the meeting of May 20, 2010.

AYES: All

Commission Comments and Requests

None.

Adjournment

A motion was made, seconded and unanimously passed to adjourn the meeting at 10.15 p.m.

Respectfully submitted,

Joanne O'Hehir