DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, August 19, 2010

Call to Order/Roll Call:

COMMISSIONERS PRESENT	Shelley Hamilton (Vice-Chair) Brannon Ketcham (Chair) Peter Lacques Shelby LaMotte Pam Meigs Peter Ramsay
COMMISSIONERS ABSENT:	Terry Goyan
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 with Commission Comments and Requests to take place following Public Comments on Non-Agenda Items and the removal of 263 Bolinas Road from consent to the first item on the regular agenda.

AYES: All

Public Comments on Non-Agenda Items

No one from the public came forward to speak.

Commissioner Comments

Commissioner LaMotte and Planning Director Moore discussed protocol concerning the two public hearing items that were very similar and which were affected by the Zoning Ordinance. Mr. Moore noted that both applications needed to be entertained and the decisions of the Planning Commissions would be open to appeal.

Commissioner Meigs noted that the sale of products for consumption that contained medical marijuana should be brought to the attention of the County Health Department. In response, Mr. Moore said he would seek the advice of the Town Attorney, and Senior Planner Neal noted that the County had not commented on the food issue when they had received a previous application for a Fairfax marijuana dispensary.

Consent Item

1. 94 Scenic Road; Application # 10-18:Request for an Encroachment Permit and Retaining Wall/Fence Height Variance to construct a combination retaining wall and safety railing to create a planting bed within the right-of-way; Assessor's Parcel No. 001-051-18; Residential Single-family RS 6 Zone; Steven and Elena Bartley, applicants/owners; CEQA categorically exempt, § 15303(e), 15304(b) and 15305(b).

M/S Hamilton/LaMotte, Motion to approve the Consent Item at 94 Scenic Road:

AYES: All

Chair Ketcham read the appeal rights.

Public Hearing Items

1. 263 Bolinas Road; Application # 10-13: Continued consideration of a request for a Use Permit and Variances to replace an existing open sided shed and a storage structure in the Creek Setback with two 120 square foot storage structures; 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. She noted that the redesign of the project eliminated the necessity for a site survey and that one of the two sheds would still remain in the creek setback, for which a variance had been requested.

Ms. Neal stated that the applicants hoped that two changes could be made to the conditions for reasons she explained.

Chair Ketcham noted that he had requested this item be removed from consent because he believed that projects which encroached upon the creek setback should be discussed.

Ms. Neal noted that the Code did not limit the number of accessory structures on a property provided lot coverage was met. Chair Ketcham suggested that the Code be amended to limit the number of accessory storage structures on a property but that he would support the project.

Ms. Neal noted that because the lot was only 50 feet wide, any further requests for accessory structures would need to be brought before the Planning Commission.

Chair Ketcham opened the meeting to the public and the applicant, Jack Judkins, discussed the project in more detail. He said that they had tried to accommodate the limitations that they faced.

Chair Ketcham closed the public comment period.

M/S, Hamilton/Meigs, Motion to approve a request for a Use Permit and Variances to replace an existing open sided shed and a storage structure in the Creek Setback with two 120 square foot storage structures at 263 Bolinas Road with amendments to the conditions as indicated by staff.

AYES: All

Chair Ketcham read the appeal rights.

3. 1587 Sir Francis Drake Boulevard; Application # 10-20: Request for a Use Permit and Parking Variance to operate a combined medical marijuana dispensary/acupuncture office; Assessor's Parcel No. 002-213-06; Highway Commercial CH Zone; Morgan Hall, applicant; Mina and Ziba Sohaei, business owners; Sang and Pyong Kim, property owners; CEQA categorically exempt, § 15301(a).

Senior Planner Neal presented the staff report. She noted the hours of operation and the number of staff on site. Ms. Neal discussed security measures.

Ms. Neal noted that a dispensary was not a permitted use, which was the reason a Use Permit had been requested. She said that staff had safety concerns due to the proximity of the dispensary to a residential neighborhood.

Ms. Neal discussed the necessity of a parking variance because the property had insufficient parking. She noted that businesses were operating legally in town without adequate parking because public parking was nearby.

Ms. Neal noted the reasons that staff recommended denial of the project, which included the lack of parking. She said that staff believed there were more suitable locations for a dispensary, away from residential areas.

In further response to Commissioner Meigs, Ms. Neal noted that the selling of food products was not proposed.

Commissioner LaMotte and Ms. Neal discussed parking in relation to ADA compliance.

Commissioner Lacques and Ms. Neal discussed the absence of conditions. Ms. Neal said that if the Commissioners favored the project, staff would ask for a continuance to bring the findings and conditions before the Commissioners at a future meeting based on the comments from the general public and Planning Commissioners.

Chair Ketcham and Ms. Neal discussed traffic issues. Chair Ketcham said the area appeared to be congested.

In response to Commissioner Lacques, Ms. Neal said that an acupuncture office would require a Use Permit.

Scot Candell, applicant's attorney, discussed the location. He acknowledged that that parking was inadequate and that they were seeking additional spaces to rent from nearby businesses. Mr. Candell also discussed security for the operation. He believed that the proximity to a residential neighborhood should not be a reason for denial.

Commissioner Meigs and Mr. Candell discussed dispensaries that operated close to residential areas and the number of expected clients each day.

Commissioner Lacques and Mr. Candell discussed parking in relation to an ADA space.

In response to Commissioner Hamilton, Mr. Candell discussed the reasons the conditions that applied to a previous medical marijuana dispensary application had not been included with this application. Mr. Candell expressed his concern that the clients' medical records could be subpoenaed but that the applicants would comply with the conditions if required.

In response to Chair Ketcham, Morgan Hall, project architect, said that he believed a prescriptive easement existed at the back of the building. They discussed ADA parking and Chair Ketcham opened the meeting to the public:

Lisa Arnica, Sir Francis Drake Blvd, said that she lived next door to the dispensary and that it was an inappropriate business for the location. She said she would not wish her young son to play in the front yard of a dispensary and she expressed concern that the site was a mess and that parking was inadequate.

Jeff Fink, owner of the Coin Operated Fairfax Car Wash, urged the Planning Commissioners to deny the application due to the lack of parking. He expressed concern that his parking spaces would be used by the business' clients. Furthermore, he said that a lot of school kids passed by the shop front and that it was, therefore, an inappropriate place for a marijuana dispensary.

Bonnie Zaleski from the Tutoring and Learning Center said that there was a bus stop nearby which was used by students and so she did not favor a dispensary in the proposed location.

Mike Zeleski, said that they did not wish to live between two medical marijuana dispensaries where they also operated a tutoring business.

Sven Revel, owner of Mauro's Pasta and a resident of Fairfax, said that there had always been parking problem in the area. He said he would not rent his spaces to the applicant and that people from other businesses already used his spaces.

The owner of a dance studio in Fairfax said he objected to the project because of the parking issues.

Skye Bailey of Little Arrows said she was opposed to a dispensary opening in the location. She discussed traffic problems and her concerns about people in the vicinity of her school who could be in altered states; that the business could attract thieves and would enable young people to obtain pot easily.

Joshua Truman, a teacher at the day care school, said that the proposed project was too close to the school.

Dean Stubbings, owner of Madera Furniture, said that parking was of great concern to him and that his customers might be scared away by the security measures that were proposed.

Rebecca Kleiner, Hill Avenue, said that a marijuana dispensary was not a safe use so close to a residential area and parking was a problem.

Joan Isetta, owner of 1599 SFD, expressed her concern for the lack of parking.

Brad Beard, Willow Avenue, said that his daughter cycled passed the potential marijuana dispensary, which undermined his role in teaching her that drugs were evil. He also expressed concern with parking issues.

In response to public comments, Mr. Candell said they understood the parking concerns but that a dispensary should raise no more concerns than a liquor store.

Mina Sohaei, business owner, said that whatever kind of business she opened in the space could not meet the parking requirements and that she was only given two spaces. She noted that dispensary operated close to a soccer field.

Derek Schutt, Hill Avenue, said that there were other places in town that would be more suitable for a dispensary.

Briana Beard, Willow Avenue, student at Drake High School, said that a dispensary would attract students and that she was against a dispensary opening on her route to school.

A renter, who lived next door, said that she was against the project due to the lack of parking and safety concerns.

Chair Ketcham closed the public comment period.

Commissioner Meigs said that the lack of parking remained an issue and that an area closer to downtown with parking would be more suitable. She noted that illegal dispensaries were operating in the County.

Vice-Chair Hamilton agreed with Commissioner Meigs about parking issues. She noted that a parking forum had been scheduled. Vice-Chair Hamilton said that the Town should consider the zoning and parking issues for the block where there was clearly insufficient parking.

Commissioner Lacques said that the location was inappropriate for a dispensary and that it was rare to hear unanimous opposition for a project based on parking issues.

Commissioner LaMotte said that she believed there was a place for a medical marijuana dispensary in town but not at this location. She said she could not see how such a business would work in this location.

Commissioner Ramsay said that he would like to see competition; that the dispensary was a business like any other. However, parking and location were critical and he agreed with the other Commissioners' comments that the location was not suitable.

Chair Ketcham said that the community had voiced its concern over parking and safety issues. He said that the location was wrong for a dispensary, although any business that operated at the site would have the same traffic and parking issues. He said that he hoped the Town would address the safety hazards concerned with the property's ingress and egress.

M/S, LaMotte/Meigs, Motion to accept staff's recommendation and deny a request for a Use Permit and Parking Variance to operate a combined medical marijuana dispensary/acupuncture office at 1587 Sir Francis Drake Boulevard based on the testimony from the public.

Ayes: Ramsay, Hamilton, Ketcham, Lacques, Meigs, LaMotte

The motion to deny the project at 1587 Sir Francis Drake Blvd was unanimously approved.

Chair Ketcham read the appeal rights and announced a 10-minute break at 9.20 p.m.

4. 1621 Sir Francis Drake Boulevard; Application # 10-21: Request for a Use Permit and Parking Variance to operate a combined medical marijuana dispensary/holistic healing center; Assessor's Parcel No. 002-211-02; Highway Commercial CH Zone; Karen Kissler, applicant/business owner; William Lehrke, property owner

Senior Planner Neal presented the staff report, when she noted that the application included the sale of food products and delivery. Ms. Neal discussed the number of employees and security measures and she noted that a petition of support from Fairfax residents had been submitted.

Ms. Neal said that the Police Department opposed a delivery service for which a Use Permit had been requested because it was not a permitted use. She noted that the location was next to a residential area, for which reason staff had recommended denial of the project.

Ms. Neal said that there were insufficient parking and, therefore, a Parking Variance had been requested. She noted that Marin County Health Department had reviewed the application and had suggested that food items not be sold on the premises.

In summation, Ms. Neal said that, based on the lack of parking and safety concerns, staff considered the use for the premises to be inappropriate and were recommending denial based on the findings in the staff report.

Chair Ketcham and Ms. Neal discussed the County's comments on the sale of food products.

In response to Commissioner LaMotte, Ms. Neal said that the owners of the property formally known as Albertsons were not willing to enter into an agreement to rent parking spaces to the applicant.

Chair Ketcham and Ms. Neal discussed ADA parking.

In response to Commissioner LaMotte, Planning Director Moore said that the applicant was under contract to purchase the property where they hoped to open the medical marijuana dispensary.

Vice-Chair Hamilton and Ms. Neal discussed rented parking spaces and Ms. Neal noted that the terms of a Use Permit were difficult to enforce under such circumstances.

Commissioner Meigs and Ms. Neal discussed the petition for support.

Karen Kissler, applicant, discussed her project using a slide presentation. She noted that the operation would be open, green and environmentally friendly. Ms. Kissler discussed the security measures and said that the location was set back from the street. She also discussed the hours of operation.

In response to Commissioner Meigs, Ms. Kissler discussed the shuttle service and the number of expected clients and discounts.

Commissioner Lacques and Ms. Kissler discussed parking.

In response to Vice-Chair Hamilton, Ms. Kissler discussed other locations she had considered using. She said that they would try to mitigate the parking issues and would reduce the numbers of patients if necessary.

Chair Ketcham and Ms. Kissler discussed the compatibility of the site with its potential use in close proximity to a residential neighborhood. Chair Ketcham discussed his parking concerns and delivery. Ms. Kissler indicated a willingness to comply with the conditions that were applied to a previous dispensary in the town.

Tamara Glass, Marin resident, spoke on behalf of Alternatives. She said that the operation was similar to a medical office; that it would be clean and efficient and that kids walked by without noticing. She said that people would not loiter outside the premises.

A resident of Burgess Court, Sausalito, said that he supported the project and that the business and its owner would be very professional.

Jeff Fink, owner of the Coin Operated Fairfax Car Wash, acknowledged that medical marijuana could help people but that the location was unsuitable due to its lack of parking and hazardous ingress and egress.

Mike Zeleski, Tutoring and Learning Center, said that it was not a suitable business for the location.

Matt Brown, Brookside Drive, San Anselmo, realtor for the property, noted that the lack of parking would affect any business that operated in the property. Furthermore, he noted that the Fairfax Theatre and the meeting room at the Fairfax Women's Center had insufficient parking.

Bonnie Zeleskie said that she was concerned about children getting off the bus stop that was close to the proposed business. She said that the property was not appropriate for such a use so close to the residential area.

Skye Bailey, Little Arrows, noted that the presentation was beautiful but that she remained concerned with the parking issues; that it was an unsuitable location for such a use when parents with small children were in the vicinity and with the behavior of people who used marijuana.

Sven Revel, owner of Mauro's Pasta, said that parking was a major problem and that the location was wrong for the business.

A resident of Olema Road, Fairfax, said that it would be inappropriate to have a medical marijuana dispensary so close to a pre school.

Bill Lehrke, owner of the property at 1621 Sir Francis Drake Boulevard, said that the lack of parking had never been a problem and that there was no use associated with the property that could operate without a vehicle.

Brad Beard, Willow Avenue, said that the nearby intersection was already too congested without another business in the vicinity that attracted traffic. He said he objected to the use because families lived nearby.

Chair Ketcham closed the public comment period.

Commissioner Lacques noted that the presentation was professional but that he believed the location was inappropriate for the type of use that was planned. He was concerned that a delivery vehicle would need to back out of the driveway into traffic and that there was insufficient parking.

Vice-Chair Hamilton said that the neighborhood had unique constraints. She said that she encouraged residents to participate in the Town's planning processes.

Commissioner Meigs said that it was unfortunate that there were parking restrictions and that the business needed to find a more appropriate location away from a residential area.

Commissioner LaMotte noted that the area needed to be revitalized but that it was more suited to foot traffic than vehicular traffic. She did not think the site was appropriate for a business that hoped to operate a delivery service. She said that the business use was a great fit for Fairfax but not the location.

Commissioner Ramsay said that the neighborhood had spoken and that the Commissioners should respect their views. He expressed hope that the business would find a more suitable location.

Chair Ketcham said that there were other areas in town where the model could work and that the Commission should study the zoning for the block to identify appropriate business uses. He noted that there would be parking issues with many uses that could use the property. He discussed traffic circulation problems with the area.

M/S, Meigs/LaMotte, Motion to deny the request for a Use Permit and Parking Variance to operate a combined medical marijuana dispensary/holistic healing center 1621 Sir Francis Drake Boulevard based on the findings in the staff report.

Ayes: Ramsay, Hamilton, Ketcham, Lacques, Meigs, LaMotte

The motion to deny the project at 1621 Sir Francis Drake Blvd was unanimously approved.

Chair Ketcham read the appeal rights.

Discussion Items

5. (1) Prioritizing future PC Workshop Topics; i.e., Green Building Ordinance, Carbon Action Plan, Town Center Plan, Zoning Ordinance update, others?

Planning Director Moore discussed the Green Building Ordinance, which he said should be coordinated with the Building Code changes that would be amended in January 2011.

Mr. Moore noted that the Marin Climate Energy Partnership Committee had received a grant from the Marin Community Foundation that would help to fund a Carbon Action Plan.

Mr. Moore discussed an upcoming parking forum which would address uses that have inadequate or no parking.

Mr. Moore discussed the challenges of ensuring the General Plan and Zoning Ordinance were synchronized.

(2) Confirmation of who will be the (two) representatives on the General Plan Update "Super Committee" retreat in the fall - from the Planning Commission; i.e., the Chair and Vice Chair or their designees

Planning Director Moore noted that the Chair and Vice-Chair or their designee would form a subcommittee to attend a retreat in late October/early November to review the updated General Plan.

Mr. Moore discussed the EIR (environmental impact review) process in relation to the General Plan.

Planning Director's Report

Planning Director Moore discussed the Housing Element for which a joint discussion was scheduled for the following week. He suggested that Mayor Tremaine should chair the meeting.

Mr. Moore suggested zoning changes that could be made to the block on Sir Francis Drake Blvd that was discussed during the evening.

Approval of Minutes

4. Review of the Minutes from the Workshop Meeting of July 15, 2010

M/S, Ramsay/LaMotte, Motion to approve the minutes of the Workshop Meeting of July 15, 2010, with the amendment from "Commissioners Present" to "Commissioners Absent" on the first page:

AYES: Hamilton, Ketcham, Lacques, LaMotte, Ramsay
ABSTENSION: Meigs

Commission Comments and Requests

Commissioner Meigs discussed a Chamber of Commerce Mixer that was scheduled.

Adjournment

A motion was made, seconded and unanimously passed to adjourn the meeting at 11.20 p.m.

Respectfully submitted,

Joanne O'Hehir