DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, May19, 2011

Call to Order/Roll Call:

COMMISSIONERS PRESENT: Morgan Hall
Shelly Hamilton (Vice-Chair)
Brannon Ketcham (Chair)
Peter Lacques
Shelby LaMotte
Ryan O'Neil
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 7.32 p.m.

APPROVAL OF AGENDA

M/S, Lacques/Hamilton, Motion to approve the Agenda.

AYES: All

Commissioner LaMotte arrived at 7.33 p.m. and Vice-Chair Hamilton arrived at 7.34 p.m.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No-one from the public came forward to speak.

CONSENT ITEMS

None.

PUBLIC HEARING ITEMS

1. 150 Bolinas Road; Application # 79-UP-33: Continued consideration of a request for a modification of a previously approved Use Permit to allow the existing 7-11 convenience store to remain open 24 hours; Assessor's Parcel No. 002-101-13; Highway Commercial CH Zone District; Richard M. Matthews Trust, owner; Rajiv Uppal, applicant; CEQA categorically exempt, § 15301.

Senior Planner Neal presented the staff report. She discussed the incidents/complaints in the Police report that had occurred during the past year between the hours of 10 p.m. and 6 a.m., which the commissioners had requested at the previous meeting. Ms. Neal also discussed additional security measures and the reasons staff were able to recommend approval of the modification to the Use Permit, which were contained in the staff report.

Commissioner Hall and Ms. Neal discussed the need for the original Use Permit. Ms. Neal noted that landscape maintenance was part of the agreement and that the store owners had recently made improvements.

Commissioner O'Neil and Ms. Neal discussed the Police call-outs and Ms. Neal noted that 10 call-outs in the past year were directly attributed by the Police Department to the 7/11 store.

Chair Ketcham and Ms. Neal discussed noise monitoring in relation to the Police Department.

Rajiv Uppal, applicant, discussed additional camera installation and noted that nighttime deliveries had been changed to daytime deliveries at the store. He said that they had chained off parking spaces nearest to the immediate neighbor between 9 p.m. and 6 a.m.

Mr. Uppal and Commissioner Hall discussed the business and property ownership.

Commissioner Lacques discussed his liquor concerns with Mr. Uppal, who agreed that they would not sell liquor after midnight. Commissioner Lacques said he believed that approximately one noise complaint each month during late night hours was significant.

Chair Ketcham opened the public comment period.

Tina Marino, Park Road, said that she appreciated the improvements but they are too little, too late. She discussed the reasons she did not support a franchise business and the problems with trash. She said she did not support all night open hours. She discussed a list of incidents she presented to the commissioners.

Ms. Neal noted that the site had been a convenience store since the 1970s and that it was in the Highway Commercial zone, which allowed formula stores.

Peter Parish, Murial Place, noted that disruptions seemed to happen at night when no-one was present on the property and that 24 hour-opening would mean someone would be present.

Chair Ketcham closed the public comment period.

Vice-Chair Hamilton and Planning Director Moore discussed how a change in the zoning code could affect an established business.

Commissioner Lacques said there was another 24-hour convenience store in town and that this was not a suitable location for a store to remain open all night. He believed that it would affect the neighbors and be an incompatible use.

Commissioner Ramsay noted that the store had collected about 200 signatures in support of all-night open hours and that people worked at different hours and needed access to things at different hours. He noted that someone would be on the premises and said that he was not inclined to disrupt the business.

Commissioner Hall noted that most of the problems were generated at night and that he believed it would be worse in the early hours of the morning after the bars closed. He believed that midnight was long enough for the store to remain open and that he would not want the Town of Fairfax to be the kind of town which was open all night long. He did not support extended open hours.

Commissioner LaMotte said that it would not be fair to lay the problems of bars and activities in town on the store. She expressed her concern with the area being lit all night long, which she said encouraged energy and activity, and that she believed midnight was late enough for closing. She said she did not know whether six additional hours would outweigh the perceived or actual detriment that could be caused.

Commissioner O'Neil said that some neighbors would lose some of their quality of life with 24-hour opening, but that there were other residents who had nighttime needs. He believed that the applicant would be making a big concession not to sell alcohol after midnight and that the local community supported the store and would benefit by it, even if it was owned by a corporation.

Vice-Chair Hamilton noted that the store provided an amenity for some people, although she did not believe the community needed a large, well-lit street corner at night. However, she said that it was not known with true certainty how much the problems would worsen if the store hours were extended. She noted that the store had local patronage.

Chair Ketcham discussed the call-outs and he agreed with Vice-Chair Hamilton that that the extent of the possible problems caused by longer opening hours after the bars closed were not know. He noted that many of the locals signed the petition for longer open hours, although he said that he had not seen any demonstration that people would like a 24-hour town.

Vice-Chair Hamilton and Ms. Neal discussed revocation of a Use Permit. In response to Commissioner Lacques, Ms. Neal noted that both tenants and property owners had been notified of the application.

Commissioner Hall discussed his concerns that other businesses might request 24-hour opening.

M/S, Lacques/Hall, Motion to deny Application # 79-UP-33, continued consideration of a request for a modification of a previously approved Use Permit to allow the existing 7-11 convenience store to remain open 24 hours at 150 Bolinas Road.

A roll call was taken:

Ayes: LaMotte, Ketcham, Hamilton, Ramsay, O'Neil
No: Hall, Lacques

Discussion took place on adding further restrictions to the Use Permit.

M/S, O'Neil, Ramsay, Motion to approve Application # 79-UP-33, continued consideration of a request for a modification of a previously approved Use Permit to allow the existing 7-11 convenience store to remain open 24 hours at 150 Bolinas Road based on the findings and conditions in the staff report, with the following added conditions:

1. No alcohol shall be sold after midnight
2. Deliveries shall be made during daytime hours and not during nighttime hours
3. The Planning Commission shall review the Use Permit at the meeting in November and review Police Department reports that would include any incidents associated with the store.
4. Landscaping to be installed and maintained along with the site lines along Bolinas and Park.

A roll call was taken:

Ayes: LaMotte, Ketcham, Hamilton, Ramsay, O'Neil
No: Hall, Lacques

Chair Ketcham read the appeal rights.

2. 40 Forrest Terrace: Application # 11-04:Request for a Use Permit to legalize an unpermitted expansion of a single-family residence and Variances of the minimum and combined Side Yard Setbacks to legalize an unpermitted deck; Assessor's Parcel No. 002-091-01; Residential Single-family RS 6 Zone; Harold Lezzeni, Architect; Julian and Martha Pearl, owners; CEQA categorically exempt, § 15301(e) and 15305(a).

Senior Planner Neal presented the staff report. She noted that the new owners were requesting a Use Permit to legalize a portion of the basement that had been converted to a bathroom and laundry room and the decks, which had been built up to the northern side property line. Ms. Neal also noted that significant excavation would not be necessary or the removal of vegetation. She discussed the applicant's need for discretionary permits for reasons in the staff report.

Ms. Neal said that staff could support the legalization of the living space in the basement because it would not result in the whole structure being out of proportion or character with other properties in the neighborhood. However, Ms. Neal noted that staff could not make findings to support the side setback variance for the decks for various reasons, which included a large, level front yard and a veranda that already provided outdoor useable space.

The applicant, Julian Pearl, said that they had not realized the decks were an issue when they bought the property. He said he had spoken to the neighbors who were directly affected and that they had no objections.

Ms. Neal noted that resale inspections did not include setbacks, but that any problems should have been disclosed to the buyers at the time of the resale.

Commissioner Hall and staff discussed the decks' grade and pedestrian paths in relation to subdivisions. Ms. Neal suggested that a survey should be undertaken if a variance was granted.

Commissioner LaMotte and the owners discussed deck removal. Mr. Pearl discussed the difficulty of gaining access to the bottom level without the deck.

Chair Ketcham opened the public comment period and closed it when no-one stepped forward to speak.

Commissioner Lacques said he did not believe it would be necessary to remove the decks and that it would be difficult to build new decks that conformed to the setback. Furthermore, the existing decks did not impact other properties and removal would be a hardship. He said he would support the variance.

Vice-Chair Hamilton discussed the findings with staff and Chair Ketcham suggested adding a condition that if the structures were to be removed then another structure could not be built in their place it did not conform to setback requirements.

Chair Hall discussed the reasons he believed the lower deck, which was built across an easement, could pose a safety issue.

Commissioner Ramsay said it did not concern him that the decks were built up to the property line.

Discussion on the way forward took place. The applicants confirmed that they did not yet know if they wished to retain or remove the decks and they waived their rights under the Streamlining Act so that the application could be split and the deck portion continued to a later date.

M/S, Hamilton/LaMotte, Motion to approve part of Application # 11-04, the request for a Use Permit to legalize an unpermitted expansion of a single-family residence and to continue for 6 to 9 months, if the deck was not removed, the request for variances for the minimum and combined side yard setbacks to legalize an unpermitted deck at 40 Forrest Terrace.

Ayes: All

Chair Ketcham read the appeal rights.

3. <u>75 Taylor Drive; Application 11-11: Request for a Use Permit to remodel and expand a 768 square foot single-family residence to a 1,142 square foot residence; Assessor's Parcel No. 002-131-26; Residential Single-family RS 6 Zone; Chris and Sarah Gaidano, owners; CEQA categorically exempt, § 15301(e).</u>

Senior Planner Neal presented the staff report. She discussed the project and noted that it would comply with setback and height limitations for the zone. Ms. Neal noted that a Use Permit would be required because the lot was substandard in size and width. However, she said the proposed project would not be out of character with the neighborhood and that staff recommended approval for the reasons in the staff report. However, she did note that a side yard fence did not comply with height limitations but that it had not been included in the staff report for reasons she explained.

Chair Ketcham and Ms. Neal discussed the number of stories and general consensus was reached that it would be considered a two-story home.

Commissioner Lacques discussed his concern that the excavation of the area beneath the master bedroom would be sufficiently large to create habitable space. However, Ms. Neal noted that they would not be excavating a sufficient amount in accordance with the Code and that the space would be unfinished.

Commissioner LaMotte noted that there was sufficient space to create additional habitable space.

The Applicant, Chris Gaidano, discussed the fence and retaining wall and his concerns that he might need to lower the fence to meet height restrictions.

Ms. Neal noted that an application had not been filed for a height variance and proper noticing had not taken place. Therefore, the fence could not be included in discussions.

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

Commissioner Lacques noted that the project was modest and that he would suggest a condition be added that the unused floor area could not be used as habitable space without a request for permits.

Chair Ketchem said that it was a thoughtful project.

M/S, Hamilton/LaMotte, Motion to approve Application 11-11, a request for a Use Permit to remodel and expand a 768 square foot single-family residence to a 1,142 square foot residence at 75 Taylor Drive, with the additional condition that the area to be excavated beneath the master bedroom could not be used for living space without building permits being obtained.

Ayes: All

Chair Ketcham read the appeal rights.

4. <u>12 Muriel Place; Application # 11-12: Request for a Use Permit and Parking Variance to remodel and expand an existing 1,689 square foot single-family, one story residence, to a 1,841 square foot, two story residence; Assessor's Parcel No. 001-131-26; Residential</u>

RD 5.5-7 Zone; Charles Theobald, Architect; Peter Parish and Sarah McKereghan, owners; CEQA categorically exempt, § 15301(e).

Commissioner LaMotte recused herself because she lived within 500 feet of the property and Senior Planner Neal presented the staff report. Ms. Neal noted that a Use Permit would be required because the site did not meet the minimum width or size requirements. She also discussed the need for a Covered Park Variance and the reasons why staff had determined that the lack of covered parking on the site was considered legal-non-conforming. Ms. Neal noted that the proposed residence would be lower in height than other properties in the vicinity and that covered parking was not unusual in the area. She also discussed other reasons staff could recommend approval based on the findings and conditions in the staff report.

Commissioner Lacques and Ms. Neal discussed the reduction in lot coverage.

In response to Chair Ketcham, Ms. Neal noted that because the project constituted a 50% remodel, the property needed to be brought into compliance with current standards, including parking requirements, or obtain a variance.

Peter Parish, applicant, and Chair Ketcham discussed the solar layout on the roof.

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

Commissioner Lacques said that the plan was reasonable and would blend in well in the neighborhood. He commented that covered parking would provide more mass and setback issues already existed.

Chair Ketcham approved the project, which he said was a modest second story.

Commissioner Ramsay said that he appreciated the presentation and that the project looked great.

M/S, Hamilton/Lacques, Motion to approve Application # 11-12, a request for a Use Permit and Parking Variance to remodel and expand an existing 1,689 square foot single-family, one story residence, to a 1,841 square foot, two story residence at 12 Muriel Place with the findings and conditions in the staff report.

Ayes: All

Chair Ketcham read the appeal rights.

PLANNING DIRECTOR'S REPORT

Planning Director Moore discussed the GPIC (General Plan Implementation Committee). He noted that a volunteer planning commissioner would be needed to join the committee.

In response to Commissioner Lacques, Mr. Moore said that the Good Earth project would be heard by the Council at their next meeting. He discussed a noise issue that had been brought up at the previous meeting by a member of the public and how the project should progress.

Mr. Moore and Vice-Chair Hamilton discussed project submissions in relation to the current General Plan and the future updated General Plan.

APPROVAL OF MINUTES

5. Minutes from the April 21, 2011 meeting.

M/S, Ramsay/Hall, Motion to approve the minutes from the April 12, 2011 meeting.

AYES: ALL

COMMISSIONER COMMENTS AND REQUESTS

Commissioner Ramsay said that he would shortly be moving to Nevada City.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10.25 p.m.

Respectfully submitted,

Joanne O'Hehir