

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, November 17, 2011

Call to Order/Roll Call:

COMMISSIONERS PRESENT: Barbara Coler
Morgan Hall
Shelly Hamilton (Vice-Chair) (arr. 8.55 p.m.)
Brannon Ketcham (Chair)
Peter Lacques
Ryan O'Neil (arr. 7.30 p.m.)

COMMISSIONERS ABSENT: Shelby LaMotte

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

Chair Ketcham called the meeting to order at 7.05 p.m.

APPROVAL OF AGENDA

Commissioner Lacques requested that the item on Consent, 36 Merwin Avenue, be removed to the regular agenda for discussion.

M/s, Coler/Lacques, Motion to approve the Agenda as modified.

AYES: All

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No one from the public came forward to speak.

PUBLIC HEARING AGENDA

1. 36 Merwin Avenue; Application # 10-06: A request for a modification of a previously approved Use Permit to revise the approved floor plan for a project constituting a 50% remodel/addition; Assessor's Parcel No. 002-111-04; Residential RD 5.5-7 Zone District; Rowan and Vikki Fennell, applicants/owners; CEQA categorically exempt, §15301

Senior Planner Neal presented the staff report. She discussed the proposed modification to the floor plans, which included replacement of shingle with wood siding and the installation of two office windows. Ms. Neal explained why the modifications were necessary and the reasons that staff could support the project, which included the fact that the changes would not impact the neighbors to a significant degree.

In response to Commissioner Lacques, staff used the plans to clarify the position of the new half bathroom.

Mr. Fennell confirmed that he had spoken with the neighbors who might be most affected by the installation of the windows and they had not voiced concerns.

Commissioner Hall discussed his concern with Ms. Neal that with the addition of a new half-bathroom, a second unit could eventually be constructed. Ms. Neal noted that the addition of a second kitchen would constitute a second unit, rather than a bathroom, but she suggested that a deed restriction be recorded to state that there would be only one kitchen area in the house.

Chair Ketcham opened the public comment period and the applicant, Mr. Fennell, discussed the reasons for the changes to their plans. He said that it had not occurred to them to build a second unit but that they thought a half bathroom would be useful. He discussed the reasons why he did not consider a deed restriction to be necessary.

Planning Director Moore discussed the deed restriction and noted that it would not necessarily impede future plans to create a second unit. Ms. Neal noted that different planning conditions applied to second units.

Chair Ketcham and Ms. Neal discussed the multi-family zone in relation to the property and Ms. Neal noted that there was probably insufficient space on the usable part of the property in which to expand further.

General discussion took place between staff and commissioners on deed restrictions. There was general consensus that a deed restriction should be added as a condition of approval.

Chair Ketcham closed the public comment period when no one else stepped forward to speak.

Commissioner O'Neil arrived at 7.30 p.m.

M/s, Hall/Coler, Motion to approve Application # 10-06, a request for a modification of a previously approved Use Permit to revise the approved floor plan for a project constituting a 50% remodel/addition at 36 Merwin Avenue, with the added condition that a Deed Restriction be recorded at the County of Marin limiting the dwelling to one kitchen.

A roll call was made:

O'Neil: Aye
Coler: Aye
Ketcham: Aye
Lacques: Aye
Hall: Aye

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

2. 150 Bolinas Road; Application # 79-UP-33: Six (6) month review of a Use Permit modification to allow 7-11 to remain open twenty-four (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 noted that staff had not received complaints that related to the store being open during the additional hours from 12 midnight through 6 a.m., although the Police Department reported that they had received two complaints which related to noise created by the store during those hours. They also reported that nine complaints had been generated during the same hours the previous six months when the store had been closed. Ms. Neal said that staff therefore recommended approval to allow the store to remain open for twenty-four hours a day, subject to the original conditions of approval.

In response to Commissioner O'Neil, Ms. Neal said that they had not been provided with the names of the complainants.

Commissioner Coley and Ms. Neal discussed the landscaping, which Ms. Neal noted had been maintained.

Chair Ketcham opened the public comment period and Commissioner O'Neil and the applicant, Mr. Uppal, discussed store sales between 12 midnight and 6 a.m. and the alcohol sales ban after midnight.

Commissioner Lacques and Mr. Uppal discussed the removal of the signs related to the banning of alcohol sales after midnight.

Ms. Neal and Commissioner Hall discussed the conditions relating to a Use Permit with regard to complaints. Ms. Neal said that if the conditions of approval were violated, the applicant's Use Permit could be withdrawn.

Tina Marino, Park Road, discussed the noise caused by people gathering in the parking lot outside the store well after midnight and other ways in which the quality of her life had been impeded by the store being open 24 hours a day.

In response to Chair Ketcham, Ms. Marino said that they were disturbed by noise in the early hours of the morning. Previously, when the store had closed at midnight, they had been disturbed before that hour.

In response to Commissioner Lacques, Ms. Marino said that the chaining off of the parking space closest to their home had been an improvement but that they were frequently awoken by music coming from cars in the summer.

In response to Chair Ketcham, Planning Director Moore said that they would have asked the Police Chief to be present had there been a request from the one of the commissioners. Staff had

not thought it necessary because the number of disturbances had been reduced according to the data provided by the Police Department.

Peter Marino, Park Avenue, said that he had made two single calls in one day. He discussed his complaints that related to people gathering at 2 a.m. in the morning after the bars had closed, in addition to the problems of noise caused by cars idling. He requested that the open hours be restricted.

Chair Ketcham closed the public comment period.

Commissioner Coler and Ms. Neal discussed the loitering problems in the parking lot brought up by Mr. Marino.

Ms. Neal discussed the call statistics provided by the Police Department with commissioners Lacques and O'Neil.

In response to Chair Ketcham, Planning Director Moore suggested that they might like to continue the item in order to request the presence of the Police Chief to discuss the noise issues and additional mitigating measures.

Commissioner O'Neil commented on the improvements made by the store's personnel but questioned the overall benefit to the community of extended hours of operation.

Commissioner Hall said that he believed the extended hours exacerbated the noise in the vicinity since people gathered in the parking lot. He noted that there had been fewer calls to the Police Department, but that certain neighbors felt the extended hours were a problem which affected their quality of life.

Commissioner Lacques noted that improvements had been made but he felt some negative effects might exist in a wider area which the Police Department had not been asked to comment upon. He said that the burden of the neighbors seemed to outweigh the benefits of the shop being open all night, which did not seem to do a lot of business between midnight and 6 a.m.

Commissioner Coler concurred with the previous commissioners' comments that there did not appear to be any great benefit gained by the shop remaining open all night. Given the concerns voiced by some of the neighbors, she said she would support a further review of the all night open hours in six months. Commissioner Coler said she would like the Police Department to comment on noise and car idling issues and whether or not it could be ascertained if more people gathered in the parking lot after the bars closed than had done previously when the store had closed at midnight. She said that she would also encourage the applicant to present some ideas to ameliorate the situation that seemed to be affecting the quality of life for some neighbors.

In response to Chair Ketcham, Ms. Neal said that Perry Park closed at dusk.

General discussion took place on the way forward. Commissioner Hall and Mr. Moore discussed the effects on the zoning for the property if the updated General Plan is adopted. Mr. Moore

noted that the store would have to meet different criteria if they made a new application for extended hours after the adoption.

While Commissioner Lacques said that he favored denying the extended open hours, Commissioners O'Neil and Coley believed that there appeared to be fewer problems than previously existed and that the application should not be denied solely on the complaints heard this evening. They supported a six month review with a request to obtain input from the Police Chief.

Following discussion, staff were requested to obtain data from the Police Department related to noise and use after midnight along Park Avenue near the park and youth center for the year that preceded the store's extended open hours. They also requested the same data for the past six months, since the store's extended open hours, and to monitor the next six months until the issue is again reviewed.

Mr. Moore said that he would try to get additional lighting added to the exterior of the youth center.

Discussion on mitigating conditions took place amongst Commissioners.

M/s, O'Neil/Coley, Motion to continue Application # 79-UP-33, a six-month review of a Use Permit modification to allow 7-11 to remain open twenty-four hours at 150 Bolinas Road for another period of six months with the following conditions:

1. That "No idling" and "No alcohol" signs be erected;
2. A community bulletin board be erected outside the store;
3. That the Police Department be asked to provide the information discussed relating to noise and use after midnight along Park Avenue and for the Police Chief to be present at the next meeting.

A roll call was taken:

Hall:	Aye
Lacques:	Aye
Ketcham:	Aye
Coler:	Aye
O'Neil:	Aye

The item passed unanimously and the Chair announced that staff should be consulted if anyone wished to appeal the decision.

Chair Ketcham announced a 3-minute break at 8.55 p.m. and Vice-Chair Hamilton joined the meeting.

3. Draft ordinance of the Town of Fairfax amending Chapter 17.020, Design Review, and various other design review related sections of the Town Code to combine the functions of the Design Review Board and the Planning Commission; CEQA Guidelines Section 15282.h statutorily exempt from environmental review.

Planning Director Moore presented the staff report. He discussed the reasons why staff supported combining the functions of the Design Review Board and Planning Commission.

Mr. Moore discussed the part of the code that related to the composition of the Design Review Board and Planning Commission.

Mr. Moore discussed the reasons that staff believed the process would be simpler, which related to there being one single meeting to review a project. He also discussed the process in relation to the Permit Streamlining Act.

Vice-Chair Hamilton and Mr. Moore discussed the proposed composition of the Planning Commission.

Commissioner Coler and Mr. Moore discussed the pros and cons of combining the two boards, and Mr. Moore noted that the design review function would not be eliminated but would become part of the Commissioners purview. He discussed the process if the item moved forward and a recommendation were made to the Town Council to adopt the draft ordinance.

General discussion took place on how the boards were administered and entitlements which pertained to the Permit Streamlining Act.

Commissioner O'Neil and Mr. Moore discussed the reasons why eliminating the design review board might not be advantageous and general discussion ensued.

Vice-Chair Hamilton and Mr. Moore discussed the responsibilities of the Town Clerk in relation to the appeal process. Mr. Moore said the wording had been drawn up on the advice of the Town Attorney and he clarified the appeal process.

Commissioner Coler discussed her concerns that the Commissioners might not be able to adequately review projects and general discussion took place. She discussed specific changes she would recommend to the language relating to the appeal process, which Mr. Moore said he would include in his report to the Town Council.

Commissioner Lacques discussed the reasons he was in favor of merging the Design Review Board and the Planning Commission.

Commissioner Hall said he did not believe that seats on the board should necessarily be given to design professionals, although he noted that projects of a historical architectural nature might benefit from professional insight.

Chair Ketcham opened the public comment period.

Laura Kehrlein, Chair of the Design Review Board and architect, discussed the reasons she supported the proposal to merge the design review process with the planning process, which included her belief that the two processes did not need to be considered separately. She also discussed the reasons she believed that the process would improve project design. Ms. Kehrlein and Commissioner Coler discussed the aspects of design review.

In response to Vice-Chair Hamilton, Mr. Moore noted that the Planning Commission would be making a recommendation to the Town Council, should it be approved, to merge the functions of the Design Review Board and Planning Commission.

Robert Jansen, Forest Avenue, architect, discussed the reasons he supported the merging of the functions. He said that design and planning were essentially the same issues in his profession and he commented on the issue of whether design professionals should be required to sit on the Commission.

Mr. Moore summed up the reasons he believed they should support staff's recommendation, and Chair Ketcham discussed the advantages of combining the two functions that related to town character.

Commissioner Coler reiterated her concern that there would be insufficient time for the Commissioners to properly assess each project.

Commissioner O'Neil discussed his concerns should they support staff's recommendation and explained why he believed that the review of projects by two separate boards provided for a fairer process. He suggested that more commissioners should be appointed to ensure the fairest process possible.

Commissioner Hall noted that both the Planning Commissioners and Design Review Board Members were elected by the Town Council and he said that he did not support expanding the number of commissioners.

General discussion took place on the type of applicants who might apply for the positions. There was general consensus that specific qualifications for applicants should not be identified.

Vice-Chair Hamilton said she would encourage the Commissioners to attend the Town Council Meeting when the item is heard.

M/s, Hamilton/Lacques, Motion to adopt a draft ordinance of the Town of Fairfax amending Chapter 17.020, Design Review, and various other design review related sections of the Town Code to combine the functions of the Design Review Board and the Planning Commission with a recommendation to make the following amendment to §17.020.110 d so that it would read:

“In considering the appeal,in its reasonable judgment, necessary to accomplish the general purpose of this title”

A roll call was taken:

Hall: Aye
Lacques: Aye
Ketcham: Aye
Hamilton: Aye
Coler: No
O'Neil: Abstain

The motion passed.

APPROVAL OF MINUTES

5. Minutes from the October 20, 2011 meeting

M/s, Hamilton/Coler, Motion to approve the minutes of October 20, 2011, with the following changes:

- Amend the first page to note that Commissioner Lacques was present at the meeting and that he arrived at 7.45 p.m.
- That amendments be made to items 3 and 4 of the agenda to read as follows:

3. Resolution No. 11-04, A Resolution of the Fairfax Planning Commission Changing the Starting Time For Their Regular Monthly Meeting, Held the Third Thursday of Each Month From 7:30 PM to 7:00 PM.

M/s, Coler/LaMotte, Motion to adopt Resolution No. 11-04, a resolution of the Fairfax Planning Commission changing the starting time for their regular monthly meeting, held the third Thursday of the each month, from 7:30 PM to 7:00 PM.

AYES: All

4. Resolution No. 11-05, A Resolution of the Fairfax Planning Commission Commending Peter Ramsay for His Years of Service on the Fairfax Planning Commission.

In the absence of former Planning Commissioner, Peter Ramsay, Vice-Chair Hamilton read the Resolution.

M/s, Coler/LaMotte, Motion to adopt Resolution No. 11-05, a resolution of the Fairfax Planning Commission commending Peter Ramsay for his years of service on the Fairfax Planning Commission.

AYES: All

AYES: Coler, Hall, Hamilton, Lacques, O'Neil
ABSENTION: Ketcham

PLANNING DIRECTOR'S REPORT

Planning Director Moore addressed training for Planning Commissioners.

Mr. Moore discussed the draft General Plan and its timeline for adoption.

Mr. Moore noted that he was working on correspondence for the new owners of the gas station that would be affected by the General Plan changes.

Mr. Moore noted that a new Chair and Vice-Chair will need to be elected at the next meeting.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10.50 p.m.

Respectfully submitted,

Joanne O'Hehir