

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, April 19, 2012

Call to Order/Roll Call: Barbara Coler
Shelly Hamilton (Chair)
Laura Kehrlein
Brannon Ketcham
Peter Lacques
Shelby LaMotte (Vice-Chair)

COMMISSIONERS ABSENT: Morgan Hall

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

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

APPROVAL OF AGENDA

M/s, Ketcham/Lacques, Motion to approve the agenda with the removal of the item concerning an exception to the Creek Setback regulations at 340 Olema Road on Consent to the to the first item on the Regular Agenda:

Ayes: All

PUBLIC COMMENT ON NON-AGENDA ITEMS

No one from the public came forward to speak.

CONSENT ITEMS

1. 145 Cascade Drive; Application # 12-07: Use Permit, Combined Side Yard Setback Variance, Parking Variance and Design Review to construct a 137 square foot bedroom expansion to an existing 1,038 square foot, two bedroom, one bath single-family residence; Assessor's Parcel No. 003-142-05; Residential Single-family RS 6 Zone District; Bob and Peggy Klock, Applicant's/Owners; CEQA categorically exempt, § 15301(e)(1) and 15305(a).

Chair Hamilton opened and then closed the public comment period when no one from the public came forward to speak.

M/s, Coler/Lacques, Motion to approve the consent item:

Ayes: All

Chair Hamilton read the appeal rights.

At the request of a member of the public, Chair Hamilton re-opened the public comment period.

Bob Clark, Fairfax resident, thanked the Commissioners for take the time and effort to serve on the Planning Commission.

PUBLIC HEARING ITEMS

2. 340 Olema Road; Application # 12-06: Request for an exception to the Creek Setback regulations to legalize a 6 foot tall fence located within the required 20 foot Creek Setback; Assessor's Parcel No. 174-141-52; Planned Development PDD Zone District; Brett Foley, Applicant/Owner; CEQA categorically exempt, § 15303(e).

Senior Planner Neal presented the staff report, when she noted that the applicants had undertaken an extensive, permitted remodel. Ms. Neal discussed the problem concerning complaints that had been received about a fence that was being constructed within the 20 foot creek setback.

Ms. Neal said that the applicant had met with neighbors and Friends of Corte Madera Creek, and had agreed to move the fence on the southern end 11 feet from the top of the bank and 18 feet on the northern end to join an existing chain link fence.

Ms. Neal discussed the fence materials and the reasons that the applicants had requested a retroactive fence permit, which related to trespassing amongst other reasons. She also discussed the reasons that staff felt able to support the application, which included the reason that there were several native species of trees that would otherwise need to be removed if the fence met the creek setback.

Ms. Neal provided photographic materials that had been delivered anonymously to the Town. Planning Director Moore discussed the materials and he noted that the chain link fence had existed prior to the Creek Setback regulations and that there was no reason to believe that it was not legal non-confirming.

In response to Commissioner Lacques, Ms. Neal clarified the distance of the fence from the creek bank.

The Applicant, Brett Foley, discussed the fence in relation to his remodel project. He discussed the reasons why he had believed that he was exempt from meeting the creek setbacks and said that he had moved the fence to appease his neighbors.

Commissioner Ketcham and Mr. Foley discussed the fence. Mr. Foley said that Friends of Corte Madera Creek had suggested he planted willow stakes. Mr. Foley noted that the fence would be permeable and that there were structures in the vicinity that were closer to the creek.

Chair Hamilton opened the public comment period.

Catherine Hall, a Village West condo owner, discussed her concerns that the creek setbacks were not being met and the problems caused by erosion. She presented a petition to the commissioners of people who did not support the project.

Chair Hamilton closed the public comment period.

Chair Hamilton discussed landscaping and erosion control with staff.

Commissioner Ketcham discussed the reasons for creek setbacks and he noted that mesh fences acted like a wall during a flood when debris would get caught up and would prevent free-flowing water. He noted that the fence had at least been set back but he urged the Town to think more about creek setbacks and fences.

Vice-Chair LaMotte said that she believed the project would work. However, she expressed her concern that setbacks should be taken seriously and that a closer look at creek setbacks had become necessary.

In response to Chair Hamilton, Vice-Chair LaMotte said that she would not support the removal of native plants that supported a creek bank in order to allow a fence to meet a setback.

Commissioner Kehrlein commended the applicant for coming up with a solution that seemed amenable.

M/s, La/Motte/Lacques, Motion to approve Application # 12-06, a request for an exception to the Creek Setback regulations to legalize a 6 foot tall fence located within the required 20 foot Creek Setback at 340 Olema Road:

Ayes: All

Chair Hamilton read the appeal rights.

3. 132 Wood Lane; Application # 12-04: Hill Area Residential Development Permit, Parking Variance, Combined Side Yard Setback Variance to legalize a new 1,532 square foot, two bedroom, one bath single-family residence; Assessor's Parcel No. 002-061-11; Residential Single-family RS 6 Zone District; John and Marla Hedlund, owners; Rich Dowd, Architect/applicant; CEQA categorically exempt, § 15303(a) and 15305(a).

Commissioner LaMotte recused herself due to a professional relationship with an involved party.

Senior Planner Neal presented the staff report. She provided background information on the property and discussed an easement on which part of the garage and property encroached. Ms. Neal explained that the owners have been seeking a quiet title of the easement, which should be completed shortly. The new residence would then be able to comply with the side setback requirements.

Ms. Neal discussed the construction project and she noted that the work had exceeded building permit limitations. Furthermore, the project had exceeded the 50% remodel limit and therefore required design review.

Ms. Neal said that the proposed residence and other structures on the site complied with the zoning regulations and she went on to discuss the necessary discretionary permits, which included a Hill Area Residential Development Permit, combined side setback and parking variances.

Ms. Neal discussed design review and noted that the craftsman style of the building would match the original dwelling, and that the rooflines would be varied to add articulation. Furthermore, there would be adequate on-site parking and the size of the structure would be in proportion to others in the same area.

Ms. Neal noted that there would be little site disturbance and she addressed the requirements of other agencies, including the Fire Department who required the installation of a fire hydrant.

In summation, Ms. Neal noted that staff had been able to support the project for the reasons she had discussed and based on the findings and conditions in the resolution.

Planning Director Moore commended the architect. He addressed the reasons for which the Town Council had denied on appeal to bypass the planning process, which included problems related to the hillside easement.

Mr. Moore noted that staff would address the outbuilding that was currently being used as a second unit, which he discussed in relation to the Second Unit Amnesty Ordinance that was still in process.

Staff and Commissioner Ketcham discussed the amnesty ordinance.

In response to Commissioner Kehrlein, staff used the plans to clarify the position of the easement.

Staff and Commissioner Lacques discussed the building process in relation to the red tag.

In response to Commissioner Coler, staff clarified various parts of the resolution pertaining to the requirements of Marin Municipal Water District that related to the drainage and landscape plans.

Commissioner Ketcham and Ms. Neal discussed language in the resolution with regard to the drainage. He discussed the recommendation of a new fire hydrant by the Fire Department with staff.

Marla Headland, applicant, provided background information on their project.

Rich Dowd, architect, provided an overview of the project and discussed the lot line adjustments. He noted that most of the site had been well landscaped and that they would be improving the landscaping around the residence and adding irrigation.

Mr. Dowd discussed the drainage plans, when he noted that there was no drainage currently on the property. He also discussed tree removal that would be necessary.

Mr. Dowd went on to discuss the Fire Department's requirements. He said that certain conditions had been relaxed due to the use of alternate materials and methods of discussion.

Mr. Dowd noted that the footprint of the new property remained the same as the previous structure.

Commissioners Lacques and Ketcham and Mr. Dowd discussed the materials that would be used for the structure, which included exterior materials.

Commissioner Coler, Mr. Dowd and Mr. Moore discussed demolition in relation to permit requirements of the Bay Area Air Quality Management District.

Commissioner Kehrlin and Mr. Dowd discussed the water service and roof design.

Chair Hamilton opened the public comment period.

Suzanne Quintin, Wood Lane, said that she wholeheartedly supported the project.

John Libbert, Wood Lane, echoed Ms. Clinton's sentiments and said that he supported the project.

Art Black, Wood Lane, thanked the Commissioners for their time in moving the project along expeditiously.

Jo Ann Black, Wood Lane, said that the applicants had not meant to cause offence and asked that their project be allowed to move on.

Renu Malhotra, Wood lane, said that she was happy to have new neighbors and that she supported the project.

Chair Hamilton closed the public comment period.

General discussion took place on the resolution. Mr. Dowd asked if the requirement of a recorded survey could be postponed to a later date instead of prior to issuance of the building permit for reasons he explained.

In response, Mr. Moore explained that it was a requirement of the hillside residential code and the opinion of the Town Engineer that the survey should be undertaken before a permit could be

issued. Mr. Moore said he would advise the commissioners that counsel's opinion should be obtained on the matter if they considered the request.

Commissioner Lacques discussed with staff his concern that the visual materials were not clear enough and Commissioner Kehrlein said that a description of the materials and perhaps a color board would have been helpful. Mr. Moore said that staff would articulate the flavor of the design more clearly in future.

Commissioner Coler said that she felt comfortable with the project and said that she appreciated the effort put into the design and the time the neighbors took to speak at the meeting.

M/s, Coler/Ketcham, Motion to approve Application # 12-04, a Hill Area Residential Development Permit, Parking Variance, Combined Side Yard Setback Variance to legalize a new 1,532 square foot, two bedroom, one bath single-family residence at 132 Wood Lane, with the following amendments to Resolution No. 12-01:

Page 2, the condition relating to improved drainage shall be amended to read: "The project includes the construction of an improved drainage system that will direct water run-off from the hillside above the house in to the adjacent Wood Lane watercourse".

Community Development, 2 f) shall read: "Submit two copies of a record of survey subject to review by the Town Engineer and the Public Works Director prior to issuance of the building permit unless the Town's legal counsel is amenable to issuance of the building permit prior to receipt of two copies of the record of survey. A copy shall also be provided to the Marin Municipal Water district".

Community Development, added condition 13 shall read: "The applicant shall have to comply with all the requirement of other agencies and departments unless an agency or department modifies any of their requirements".

Community Development, added condition 2 g) shall read: "Prior to construction, applicant shall notify and obtain any required permits for asbestos removal from the Bay Area Air Quality Management District".

Community Development, condition 1) shall read: The approval is limited to the development illustrated on the plans.....and topographic survey sheet a by Gregory Cook dated 1/30/12 and the architect's supplemental booklet; and discussed in the following project engineering reports:..."

A roll call took place:

Lacques: Aye
Ketcham: Aye
Hamilton: Aye
Coler: Aye
Kehrlein: Aye

The project passed unanimously.

Chair Hamilton read the appeal rights and announced a 10-minute break at 9.10 p.m.

PLANNING COMMISSION TRAINING SESSION

4. The Town's contract law firm of Watson and Gershon, held a Commissioner training session focusing on Commissioner legal responsibilities and conflicts of interest.

Inder Khalsa, Assistant Town Counsel, provided a brief overview of the first training session.

She discussed the Political Reform Act in relation to reporting financial interests accurately, which included campaign contributions.

Ms. Khalsa went on to discuss the rules of conflicts of interest, which included the influencing of decisions in which an elected official might have a personal financial gain. She discussed the tests that determined conflicts of interests and the type of interests that might be affected, which included property and sources of income and business interests. Ms. Khalsa also addressed the amount of monetary gifts that could be accepted.

Ms. Khalsa discussed material financial effect, which included owning property within 500 feet of land subject to governmental decision. Ms. Khalsa said that a conflict should be briefly explained at a meeting before the elected official recused themselves.

Ms. Khalsa then covered the exceptions, which included having a personal interest. She noted that a discussion item needed to personally affect the business or property of an elected official for them to speak during the public comment period. Ms. Khalsa said that they should make it clear that they would be representing themselves and speaking as a member of the public.

Ms. Khalsa went on to discuss the rules that applied to design professionals who were elected officials and also in relation to contact with staff. She moved on to PRA penalties, which included fines and the invalidation of decisions, and the Government Code Section 1090 and its exceptions and penalties. Ms. Khalsa discussed a case study that related to Section 1090, "*Thomson v. Call*" and the *Clark* case.

Ms. Khalsa then moved on to gifts and perks. She noted that elected officials should not use their office for personal gain or taking bribes. Ms. Khalsa discussed gift limitations and exceptions that would not trigger the need to report gifts, which included home hospitality. She also discussed exceptions that included gifts from an elected official's family that were of benefit and events that honored elected officials.

Ms. Khalsa discussed loans. She noted that elected officials could not take advantage of discounted travel or free travel from transportation companies.

She went on to discuss the prohibition of gifts from public funds and penalties for the misuse of public funds.

Ms. Khalsa ended the training session when she noted that the law set minimum standards for ethical behavior, which should not be seen as limits, and she provided references for obtaining further help with ethical issues.

Various commissioners addressed questions to counsel.

APPROVAL OF MINUTES

5. Minutes from the March 15, 2012 meeting.

M/s, Coler/LaMotte, Motion to approve the minutes of the March 15 2012 meeting:

AYES: Coler, Hamilton, Lacques, LaMotte
ABSENTIONS: Kehrlein, Ketcham

PLANNING DIRECTOR'S REPORT

Planning Director Moore said that documentation confirmed that an easement ran through the gas station which would be affected by the changes to the General Plan.

Mr. Moore confirmed that GPIC (General Plan Implementation Committee) should start next week. He said that a draft Climate Action Plan would form part of GPIC's discussions.

Mr. Moore confirmed that regular vacancies on a planning commission were not included in a quorum.

DISCUSSION ITEMS

6. Continued discussion/consideration of a permitting process to allow "parklets" (temporary sidewalk extensions turning parking spaces into pedestrian gathering places).

Due to the lateness of the hour, there was general consensus amongst the commissioners to continue the item.

COMMISSION COMMENTS AND REQUESTS

There were no comments or requests.

ADJOURNMENT

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

Respectfully submitted,

Joanne O'Hehir