

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, May 15, 2014

Call to Order/Roll Call

Chair Ketcham called the meeting to order at 7:07 p.m.

COMMISSIONERS PRESENT: Roxanne Ezzet
Philip Green
Brannon Ketcham (Chair)
Shelby LaMotte

COMMISSIONERS ABSENT: Esther Gonzalez-Parber
Shelly Hamilton
Laura Kehrlein (Vice-Chair)

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

APPROVAL OF AGENDA

M/s, LaMotte/Green, Motion to approve the agenda:

AYES: All

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No one from the public came forward to speak.

CONSENT ITEMS

1. **6 Bridge Court; Application # 14-15:** Continued consideration of a Use Permit, Variances and Design Review of a remodel/expansion of a 1,386 square foot, three bedroom, 1 bath single-family residence into a 1,753 square foot, 3 bedroom, 3 bath residence increasing the structure square footage by 367 square feet; Residential RD 5.5-7 Zone; Assessor's Parcel No. 002-105-13; Rich Rushton, Rushton-Chartock Architects, applicant; Lee Mac Pherson and Rae Gordon, owners; CEQA categorically exempt, §§ 15301(a), (e)(1) and 15305(a). Recommended for a second continuance to the June 19th, 2014 Commission meeting.
2. **2097 Sir Francis Drake Blvd; Application # 14-17:** Request for a Sign Permit to erect a new monument sign for the Fairfax branch of the Marin County Library; Assessor's

AGENDA ITEM # 3a

Parcel No. 001-131-47; Multiple Family RM Zone; County of Marin, owner; Thadius Adcock, applicant; CEQA categorically exempt, §15303(e).

3. **101 Cascade Drive; Application # 14-18:** Use Permit and Setback Variances to construct a 200 square foot work studio on the site of recently demolished studio adjacent to a single-family residence; Assessor's Parcel No. 003-204-16; Residential Single-family RS 6 Zone; Diane Rose, owner; Diane Rose and Michael Gross, applicants; CEQA categorically exempt, § 15301(4), 15303(e) and 15305(a).

M/s, Green/Ezzet, Motion to remove Item 2 concerning the library sign from Consent to the Public Hearing items.

AYES: All

M/s, Ezzet/LaMotte, Motion to approve the Consent items:

AYES: All

Chair Ketcham read the appeal rights.

PUBLIC HEARING ITEMS

2. **2097 Sir Francis Drake Blvd; Application # 14-17:** Request for a Sign Permit to erect a new monument sign for the Fairfax branch of the Marin County Library; Assessor's Parcel No. 001-131-47; Multiple Family RM Zone; County of Marin, owner; Thadius Adcock, applicant; CEQA categorically exempt, §15303(e).

Senior Planner Neal presented the staff report. She noted that the location of the sign needed to be approved by the Police and Fire Departments.

Commissioner Green said that he would recommend adding a second sign on the south west side, which would be visible to traffic, at some future date.

In response to Commissioner LaMotte, a representative from the sign company clarified one of the colors.

M/s, Geen/Ezzet, Motion to approve Application # 14-17, a request for a Sign Permit to erect a new monument sign for the Fairfax branch of the Marin County Library with white lettering, and for the erection of a second sign, should it be deemed necessary at a future date, facing approximately south west, subject to the approval of the Police Department, Fire Department and planning staff, at 2097 Sir Francis Drake Blvd.:

AYES: All

Chair Ketcham read the appeal rights.

4. **3 Arrowood Lane; Application # 14-14:** Continued consideration of a request for Design Review of a proposed 2,750 square foot single-family residence with an attached 784 square foot garage; Assessor's Parcel No. 174-290-03; Residential Single family RS 6 Zone; Wayne Ferrare, applicant; Cynthia Post, owner; CEQA categorically exempt, § 15303(a).

Senior Planner Neal presented the staff report. She discussed the changes that had been requested by the commissioners at the previous meeting that included a darker color pallet.

Wayne Ferrare, owner, said he had revised the colors and materials, which he discussed in relation to the landscaping. He said that the color board also included an example of the redwood fencing that they had proposed. Mr. Ferrare presented materials to the commissioners and staff, which he discussed.

In response to Chair Ketcham, Mr. Ferrare discussed the lighting plan. He noted that the exterior lights would be downlit and would not glare outwards to the street. Furthermore, Mr. Ferrare said that a fence should provide additional screening.

Mr. Ferrare discussed landscaping in response to Commissioner Ezzet.

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

Vice-Chair LaMotte discussed her concern that there were properties on Arrowood that did not conform to color requirements by the town and the CC&Rs. Ms. Neal noted that they could control only the new sites.

Commissioner Ezzet commented on the color scheme, which she had hoped would be darker.

M/s, Ezzet/LaMotte, Motion to approve Resolution No. 14-05, Application # 1414, a request for Design Review of a proposed 2,750 square foot single-family residence with an attached 784 square foot garage, with an additional Condition of Approval to read as follows:

That landscape planting shall be provided on the exterior of the perimeter fence facing Sir Francis Drake Blvd.:

AYES: All

Chair Ketcham read the appeal rights.

5. **76 Spruce Road; Application # 14-17:** Request for a Use Permit and Variances to legalize an unpermitted residential second living unit with an accessory garage/workshop structure adjacent to a single-family residence; Assessor's Parcel No. 001-142-23; Residential RD 5.5-7 Zone; Gabriel Harris, applicant/owner; CEQA categorically exempt, § 15301(a), 15303(a) and (e) and 15305(a).

Senior Planner Neal presented the staff report. She discussed the code in relation to second units and confirmed that the owner lived in the main house. Ms. Neal explained that the size of the second unit exceeded the size of the main house by over 30%, but that it did not exceed the maximum allowable space of 700 square feet for a second unit. She noted that a variance would be necessary and discussed the reasons why staff could support a variance.

Ms. Neal noted that the FAR (floor area ratio) and height requirements had been met and she discussed the discretionary permits that would be necessary. Ms. Neal note that the second unit parking space extended over the property line, but not in the right-of-way, and that the requested variance also included waiving the need to provide covered parking. She said that, since staff felt confident that the survey was accurate, they would recommend that the need for the applicant to record the survey be waived as well.

Overall, Ms. Neal said that staff would recommend approval of the project, subject to the findings and conditions in the staff report.

In response to Commissioner Ezzet, Ms. Neal said that a business license was not necessary because a business was not operating at the residence. Commissioner Ezzet and Ms. Neal discussed the second unit application in relation to the amnesty program. They also discussed parking in relation to complaints, which Ms. Neal said pertained to issues that were not related to the property.

Commissioner Green and Ms. Neal discussed parking in relation to a culvert and the easement.

Chair Ketcham and Ms. Neal discussed the second unit in relation to complaints. Ms. Neal noted that if the use of the second unit met legal requirements, then the application should not be denied regardless of general parking problems.

Ms. Neal and Chair Ketcham discussed the provision of water and gas meters. Ms. Neal noted that the Town exempted a second unit owner from providing both meters if they were exempted by the relevant agencies.

Commissioner LaMotte discussed a complaint about over-flowing garbage, which Ms. Neal noted had been addressed in the Conditions of Approval.

Gabriel Harris, owner, said that he was not aware of parking complaints that related to his property. He said that he ensured visitors did not block traffic. Mr. Harris said that he had moved the garbage to a hidden area on his property and that he would be happy to provide a larger trash container. He addressed noise complaints that revolved around his music activities. Mr. Harris said he had a business license for a business but that it did not operate out of his home.

In response to Commissioner Green, Mr. Harris said that he did practice music at his house. He said he had received a complaint from one neighbor but that he tried to control the sound output, and confirmed that he had double-paned windows.

Chair Ketcham opened the public comment period.

Steven Vanni, Chester Avenue, discussed his concern that the Town would not be responsible for the culvert, which was on private property, if it flooded. Mr. Vanni also discussed the second unit in relation to a sprinkler system and he noted that some construction work would likely be necessary if the second unit came into compliance.

In response to Chair Ketcham, Ms. Neal noted that the Public Works Department would clear a storm drain if it were blocked and causing flooding.

Kim Turley, Spruce Avenue, discussed her concerns regarding loud drumming, garbage, the property's tenants and vehicular obstruction. Ms. Turley said she had filed a complaint with the town.

Mr. Harris' wife said that they had not been cited by the Police for noise or any other violation. She said that they have visitors but no tenants, and that they have tried to be courteous and work with their neighbors.

Chair Ketcham and Ms. Neal discussed drainage in relation to the culvert and parking. Ms. Neal noted that the Code did not address what could be placed in a parking space.

In response to Commissioner Ezzet, Ms. Neal said that they had not asked the Police Department if they had received complaints.

Commissioner Ezzet discussed her concern about the cumulative effects of second units, particularly in relation to lack of parking. She noted that noise violations should be reported to the Police.

Vice-Chair LaMotte discussed the parking, noise and dog-barking issues. However, she said that there should be more grounds to enforce the code if the second unit were legalized, and that the situation should not worsen by complying.

General discussion on the Conditions of Approval took place.

M/s, Green/LaMotte, Motion to approve Application # 14-17, a request for a Use Permit and Variances to legalize an unpermitted residential second living unit with an accessory garage/workshop structure adjacent to a single-family residence at 76 Spruce Road with the additional Conditions of Approval:

10. Garbage service shall be adequate to meet refuse produced by the main house and second unit. Applicant shall make an effort to minimize the accumulation of refuse in visible areas.
11. Applicant shall make an effort to insulate the doors and inside walls of the studio in order to minimize noise leakage.

12. Applicant shall ensure that the roadway will be kept free of dust and gravel by sweeping daily to minimize airborne materials during construction. Construction vehicles should be kept to a minimum.
13. Storage of trailers shall not occur in the primary parking spaces required for the house and second unit, or pushed into the public right of way.

A roll call took place:

AYES: Green, Ketcham, LaMotte
NO: Ezzet

Chair Ketcham read the appeal rights.

6. **232 Hillside Drive; Application # 14-19:** Request for a Hill Area Residential Development permit, Use Permit, Excavation and Design Review permit to construct an 864 square foot pool cabana and swimming pool and to convert 518 square feet of the basement of an existing single family residence to a third living unit for an employee on a developed single-family residence site that is already developed with a second living unit; Assessor's Parcel No. 002-181-03; Upland Residential Deborah and Kelly London, owners; Rich Rushton, Rushton Chartock Architects, applicant; CEQA categorically exempt, § 15301(a) and 15303(e).

Senior Planner Neal presented the staff report. She discussed the proposed project, which consisted of a swimming pool with a patio and cabana/storage structure, and a request to legalize living quarters for the au-pair. Ms. Neal noted that the lot was of a size that all setbacks would be met, and that the floor area ratio and lot coverage would remain below the permitted limits. Ms. Neal discussed the necessity of a Hill Area Residential Development Permit for a variety of reasons, one of which was that the proposed accessory structure exceeded 200 square feet, which made the permit a requirement under the Code.

Ms. Neal also noted that an Excavation Permit would be needed to remove in excess of 100 cubic square yards of material, and a Use Permit for the unpermitted living unit for their au-pair in the basement area behind the garage due to the zoning district.

Ms. Neal said that the Town Engineer had reviewed the technical reports and project plans, and that he believed the proposed project could be built without causing unnecessary problems to the neighboring properties and the public roadway.

For the reasons discussed, Ms. Neal said that staff could support the project with the findings and conditions in the staff report.

In response to Commissioner LaMotte, Mr. Rushton, Architect, discussed the amount of excavation and fill that would be needed in relation to truckloads.

In response to Commissioner Green, Ms. Neal confirmed that information requested by the Public Works Director had been provided and approved. They discussed the use of pool water by the Fire Department in the event of a fire with the applicants, and Commissioner LaMotte noted that the supply was usually considered inadequate for fire suppression.

Mr. Rushton discussed the project, when he said that they had designed the cabana with a view to it receding into the hillside. Mr. Rushton also discussed the height of the cabana, vegetation and water run-off.

In response to Chair Ketcham, Mr. Rushton said that they were not able to use much of the fill and that it needed to be off-hauled.

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

Commissioner LaMotte said that it was a nice design and nestled into the hillside, with which Commissioners Ezzet and Green were in agreement. Chair Ketcham noted that there would be no additional water run-off.

M/s, LaMotte/Ezzet, Motion to approve Application # 14-19, a request for a Hill Area Residential Development Permit, Excavation Permit and Use Permit for a pool, pool cabana and living quarters for an employee at 232 Hillside Drive:

AYES: All

Chair Ketcham read the appeal rights.

- 7. 19 Manor Road; Application # Application # 14-16:** Request for a Use Permit, Variance to park in a side yard setback and Fence Height Variance for a remodel expansion of a 1,379 square foot single-family residence into a 2, 358 square foot residence with a 7 ft 2 in front fence/arbor; Assessor's Parcel No. 001-104-07; Residential RD 5.5-7 Zone; Thomas Lutge, applicant/owner; CEQA categorically exempt, § 15301(1), 15303(e) and 15305(a).

Senior Planner Neal presented the staff report, when she provided background information on the property. She discussed a permit that was issued in 2011 to move the property out of the creek setback and do minor remodeling work. However, significant work was undertaken to the degree that staff concluded a Use Permit would be required and that parking should comply with the standards.

Ms. Neal discussed the current project, which included expansion of a single-family home and construction of a one—car garage. She made a correction to the plans that concerned the garage. Ms. Neal noted that the applicants were requesting a variance to exceed the side yard setback for parking, a fence variance to exceed the height limitations, and a Use Permit because the lot was irregularly shaped and did not meet the minimum width requirements at the street. She noted that the project constituted a 50% remodel.

Ms. Neal said that the roofline would be lowered and would be less than the maximum height allowed, and that the design would incorporate craftsman-style details with a wrap-around porch. She said that the residence would be articulated and that the design and materials would be similar in style to other residences in the neighborhood.

Ms. Neal said that staff could not support the variance for the uncovered parking space because it could be moved out of the side yard setback, nor the fence variance to exceed the maximum height allowed for reasons she explained.

Ms. Neal noted that a materials board had been provided and that, overall, staff could make the findings to support the project without the variances being granted for the fence and uncovered parking.

Commissioner LaMotte and staff discussed the fence in relation to the code and necessary findings.

Michael Pettit, Project Architect, noted that they had met the floor area ratio and setback requirements, and that they would comply with staff's recommendations to meet the uncovered parking space and fence height regulations.

Chair Ketcham and Mr. Pettit discussed the basement, which Mr. Pettit confirmed he had not designed but that it appeared to have been designed with the nearby creek in mind.

Commissioner Green said that he liked the project and noted that the shallow roof pitch would reduce the massing.

Commissioner LaMotte and Mr. Pettit discussed the removal of an apple tree.

Chair Ketcham opened the public comment period.

Robert Beifus, Manor Road, discussed his concern that his view and light had been affected by the placement of the house. He would prefer that it be moved because of the massing next to his home, although he approved of the reduction in height.

In response, Mr. Pettit said that they would provide screening and a new fence.

Richard Carson, Manor Road, said that they were tired of looking at the state of the property and that the new plans looked nice. In response to Mr. Carson, Mr. Pettit said that the applicants intended to complete their project in a timely manner.

Sean Aguilar, Manor Road, discussed past problems that related to the property and his concern that the owner did not live there.

Chair Ketcham closed the public comment period.

In response to Chair Ketcham, Ms. Neal provided background information on the property. She noted that the commissioners needed to review the project based on the laws and regulations and not on whether or not the owner lived in the property.

Ms. Neal discussed creek restoration with Commissioner LaMotte in relation to the property.

Planning Director Moore noted that the protocol was to bring properties into compliance with the codes.

Commissioner Green and Mr. Moore discussed a bond to secure a time limit for completion of the building work. Mr. Moore said that he would investigate the possibility, which led to a general discussion about imposing timelines.

Commissioner LaMotte suggested adding a condition of approval regarding plantings.

M/s, Green/Ezzet, Motion to approve Application # 14-16, a request to remodel and expand a single-family residence at 19 Manor road with the removal of variance requests to place an uncovered parking space in the side yard setback and raise the fence above the permitted maximum of 6 feet, with the following additional conditions of approval:

1. Construction drawings shall be submitted within a 3-month time-period and the project shall be completed within one year following issuance of the building permit.
16. The three parking spaces shown on the plans shall be used for principal vehicles and not for the storage of vehicles, nor will vehicles be stored in the public right-of-way.
17. The size of the hedge plants will be increased to 15 gallons and a properly placed 24" boxed tree shall be placed between the entrance of the neighbor's house and the garage and stairwell balcony for screening purposes.

AYES: All

Chair Ketcham read the appeal rights.

MINUTES

8. Minutes from the April 24, 2014 meeting.

M/s, Ezzet/LaMotte, Motion to approve the minutes of April 24, 2014.

AYES: All

PLANNING DIRECTOR'S REPORT

Planning Director Bell discussed the repeal of Ordinance 778, for which a Special Planning Commission meeting would be convened on May 27th. Mr. Bell suggested that the commissioners watch the last Town Council meeting when discussions on Ordinance 778 took place.

DISCUSSION ITEMS

9. Zoning Ordinance: Issues list creation/update

Added to the list were the following items: What constituted a vehicle, Use Permit expiration, fence height restrictions, setback restrictions that related to small lots, the cumulative effects of granting setback variances and second units.

ADJOURNMENT

A Motion was made, seconded and unanimously approved to adjourn the meeting at 10:10 p.m.

Respectfully submitted,

Joanne O'Hehir

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, May 29, 2014

Call to Order/Roll Call

Chair Ketcham called the meeting to order at 7:00 p.m.

COMMISSIONERS PRESENT: Roxanne Ezzet
Esther Gonzalez-Parber
Shelly Hamilton
Laura Kehrlein (Vice-Chair)
Brannon Ketcham (Chair)
Shelby LaMotte

COMMISSIONERS ABSENT: Philip Green

STAFF PRESENT: Garret Toy, Town Manager
Jim Moore, Planning Director
Linda Neal, Senior Planner
Joanne O'Hehir, Minutes Secretary

APPROVAL OF AGENDA

M/s, Hamilton/Kehrlein, Motion to approve the agenda:

AYES: All

PUBLIC COMMENTS ON NON-AGENDA ITEMS

John Sergeant, Madrone, discussed his concerns regarding road congestion, traffic and pollution, which would be exacerbated with additional housing. He commented on the planned workshops and the need to publicize them.

PUBLIC HEARING ITEMS

1. Consideration of a draft ordinance repealing Ordinance No. 778, a zoning ordinance that amended Town Code Chapters 5.52, 17.012, 17.020, 17.092, 17.096, and 17.104, and added Chapter 17.130, rezoned all parcels then-zoned Highway Commercial (CH) to Central Commercial (CC) Zone, rezoned APN 002-112-13 and 001-104-012 from Limited Commercial (CL) to Planned Development District (PDD); rezoned APN's 174-070-17 and 174-070-50 from UR-7 to PDD, added a Public Domain (PD) Zone, rezoned selected parcels to Public Domain (PD), provided for the supremacy of the Zoning Map

over the text in event of discrepancy, corrected typographical errors, and updated the Town Zoning Map to reflect these zoning changes, in its entirety.

Planning Director Moore presented the staff report. He provided background information on Ordinance 778 and the Resolution to repeal the Ordinance. Mr. Moore discussed the Housing Element in the General Plan, which included the conversion of the Central Highway zone to Central Commercial, and the adoption of a new Zoning Map. He explained the purpose of the zone changes.

Mr. Moore discussed the Ordinance, which had been adopted by the Town Council, in relation to a referendum petition. He said that the Town Council voted 3 to 2 at their meeting on May 7, 2014 to begin the appeal process for the entire Ordinance. The Planning Commission has been requested to start that process.

Mr. Moore noted that tonight's hearing offered an opportunity to discuss the concerns raised at the Council meeting and for opportunities to be explored to ascertain whether the Lutheran Church project could continue to move forward without Ordinance 778 being adopted. Furthermore, Mr. Moore said that staff had been directed to arrange a forum/workshop for the community to discuss their concerns.

Mr. Moore concluded that if the Planning Commission did not repeal Ordinance 778, findings would need to be made and incorporated into the Resolution that was before them.

Garrett Toy, Town Manager, added that the goal of the workshops would be to discuss inconsistencies regarding rezoning and the General Plan.

In response to Commissioner Ezzet, Mr. Moore said that the Housing Element should not lose its certification if the General Plan were implemented within a reasonable time period and the Zoning Map brought into compliance. He noted that the Lutheran Church site and 10 Olema had satisfied the state's requirements for low income housing, which he discussed.

In response to Commissioner Gonzalez-Parber, Mr. Toy said that if the petition was certified, the Council could repeal the Ordinance or put the matter on the ballot. However, the Town Council has asked the Planning Commission to consider, after further discussion, whether they would recommend that the Town Council repeal Ordinance 778.

In response to Commissioner LaMotte, Mr. Moore confirmed that the workshops could go ahead and the General Plan could be amended without the need to repeal Ordinance 778. He said that if the ordinance were repealed, all the sites scheduled for rezoning to accommodate affordable/workforce housing would be jeopardized.

Vice-Chair Kehrlein and Mr. Moore discussed site densities. He noted that the number of units designated for a site was not a guarantee that they could be built, and that a developer would not be absolved of meeting other criteria associated with new construction.

Chair Ketcham opened the public comment period.

Chris Lang, Canyon Road, discussed the problems with traffic congestion at Willow and Drake. He also said that he supported an affordable housing project at the Lutheran Church site and that it should be separated from the other sites scheduled for rezoning. Mr. Lang discussed the reasons he believed that Highway Commercial should not be changed to Central Commercial.

Valeri Hood, Dominga, discussed the lack of trust that appeared to exist and she asked who would be able to move into the affordable housing.

David O'Callaghan, Olema, said that the information on the process had not been clear. He said that the parking requirements for the 10 Olema site were inadequate and that he would like to know exactly what constituted affordable housing.

Bonnie Leonard, 73 Dominga, also asked what affordable housing meant. She discussed her concern that such sites required fewer parking spaces than ordinary housing.

Niccolo Caldararo, Frustuck, discussed the limitation of formula stores in Fairfax, and he commented on low cost housing, which he said could not be built unless there was funding in place.

Norma Fragoso, Meernaa, said that excellent work had been accomplished in updating the Zoning Map and Housing Element. She believed that the character of the town should be preserved while being able to conform to the State rules. Ms. Fragoso said that the town should maintain its certification and that the Ordinance should not be repealed.

Alexander Binik, 7 Meadow Way, discussed his concern that there was a potential to build too many affordable units in Fairfax. He agreed that the Lutheran Church project should be considered separately from other sites that had been slated for potential affordable housing.

Hannah Doress, Porteous, said that trans-oriented development was a sensible option, which would provide more opportunity for young people and other people to live close to public transport and stay in the community. She supported the plans for the Lutheran Church.

Diane Hoffman, Porteous, discussed the petition. She asked that the Planning Commissioners and Town Council members listen to the residents.

Christopher McManus, Sir Francis Drake Blvd, said that he lived close to one of the proposed sites and that he supported affordable housing.

Doug Mason, Von Court, commented on the urbanization of Fairfax, which he believed would have a negative effect on the town. He supported a repeal of the Ordinance.

Amy Gosman, Oak Manor Drive, discussed the petition. She said that she had not realized it would jeopardize a possible future housing project at the Lutheran Church, and that she would support their wish to share their land.

Alicia Klein, Resources for Community Development, discussed the potential project at the Lutheran Church site with regard to funding. Ms. Klein noted that they could not develop the site if the Ordinance were repealed.

John Sergeant, Madrone, discussed the Council's comments at their last meeting. He urged the Planning Commission to support the repealing of the Ordinance.

Morgan Hall, Walsh Lane, said that the General Plan was a fine document and should be a standard for other communities. He said that the process for approving housing developments was arduous and that residents should attend those meetings. Mr. Hall commented on the Housing Element and asked that the Planning Commission support the Ordinance.

Amy Newton, Mono, supported repealing the Ordinance and holding a workshop to discuss and explain to the community what should be done next.

Wendi Kallins, Coalition For A Livable Marin, said that there had been an excellent process that led to the Ordinance and compelling reasons why it should not be repealed. Ms. Kallins said that the town was in danger of losing the Lutheran Church project and being out of compliance with the State. She commented on the petition.

Jennifer Hammond, 9 Iron Springs Road, provided materials to the commissioners and staff. She urged the commissioners to support Ordinance 778, and she suggested that changes to the General Plan could be made at a future date after the workshops.

David Kroll, Claus, said that additional housing would increase traffic congestion and he noted that seniors used cars.

Noreen Neela, Main Court, said that affordable housing should be studied in a practical, measured way without repealing the Ordinance.

Kiki Laporta, Glen Drive, said that Fairfax was not an island and that it should be inclusive and should build affordable housing. She said that everyone needed to drive less and that she supported the Lutheran Church project.

Jane Richardson Mack, Madrone, suggested that the process should begin again so that it could be discussed in a more open way.

Frank Egger, Meadow Way, discussed the public service roles he held at the Town of Fairfax. Mr. Egger urged the commissioners to support rescinding the Ordinance in order for a fresh start to be made.

A Sleepy Hollow resident said that a full, robust debate on the housing issues should be held. He provided materials to the commissioners.

Lisel Blash, Pacheco, discussed problems with the petition. She said that parking was at a premium but that she put social justice above that and supported affordable housing.

Jessica Green, Ridgeway, commented on water in relation to affordable housing. She believed that more time was needed to get affordable housing right and that there did not seem to have been enough outreach.

Bill Carey, 220 Marinda, said that there were ways to address parking and other issues. He said he would like more clarity on those issues and to keep moving forward with the Ordinance.

Chair Ketcham closed the public comment period. He noted that a traffic study had been completed as part of the Housing Element and that Ordinance 778 reflected what was in the Housing Element and General Plan.

Commissioner Gonzalez-Parber said that she believed there appeared to be misinformation on which people were making decisions. She noted that the Housing Element could be revisited but that the Ordinance should not be rescinded. Commissioner Gonzalez-Parber said that changes could be done well with sensitivity and good design and that opportunities existed to fix any problems.

Commissioner Ezzet said that land use controls were made locally but that the State had mandated every town to have affordable housing, which she discussed. Commissioner Ezzet noted that the issues raised by residents, which mainly concerned development that had not occurred, could be addressed at workshops. She discussed the General Plan and Housing Element and said that she would not support repealing the Ordinance.

Vice-Chair Kehrlein commented on the 10 Olema parcel. She said that a lot of the issues raised about parking and traffic would be scrutinized if and when a project came forward. She recommended adopting the general plan and zoning changes that were proposed and not repeal Ordinance 778.

Commissioner Hamilton said that she respected the diverse opinions expressed and she encouraged residents to take part in discussions. She noted that the Affordable Housing Committee members, Open Space Committee members and the Planning Commissioners were all residents and volunteered their time. Commissioner Hamilton discussed the confusion that seemed to have occurred and the need for public workshops to make sure residents understood the issues.

Commissioner LaMotte discussed affordable housing in relation to people who lived in Fairfax, and she noted that a great deal of discussion on affordable housing had already occurred. She said that she wished more residents attended public meetings and noted that the workshops were not unrepresentative. Commissioner LaMotte said that the town could not choose the laws with which it wished to comply and that the General Plan represented a flexible document. She said that they should not go backwards by repealing the Ordinance.

Chair Ketcham noted that the town had held workshops, which were not well attended. He discussed the Ordinance passed by the Town Council and the rationale for its adoption. Chair Ketcham said that there were limited findings to repeal the Ordinance and that it was consistent with the General Plan. He said that he would encourage residents to read the traffic study, which

he had already noted was included in the Housing Element of the General Plan. Chair Ketcham said that he would like the workshops to be scheduled.

Commissioner Hamilton summed up the main issues that had been discussed by members of the public. She said that the town should concentrate on fixing problems with the General Plan and not waste time repealing the Ordinance.

Chair Ketcham and staff discussed the process of amending the General Plan, which would start with the first workshop in July. They discussed bifurcating the Lutheran Church from the other zoning changes, which was not recommended by staff.

Mr. Moore noted that Town Council would be taking action and that the Planning Commission needed to make their recommendation.

M/s, Ezzet/Hamilton, Motion to adopt Resolution # _____ recommending that the Town Council not repeal Ordinance 778, with the following amendments to the Resolution:

Section 2. The Planning Commission makes this recommendation to the Town Council based on the following findings:

- The General Plan includes Figure LU-1 ('Fairfax General Map') and Figure LU-2 ('Fairfax Zoning'), both of which include Public Domain (PD) and Central Commercial CC zones, and neither of which include a Highway Commercial (CH) zone; and
- The General Plan Land Use Program LU-7.1.1.2 directed that all properties within the Town zoned as Highway Commercial (CH) be rezoned to Central Commercial (CC); and
- General Plan Land Use Element Program LU-8.1.1.3 and Housing Element Program H-2.1.1.2 directed that the real properties commonly known as 10 Olema Road (Assessor's Parcel Number 001-104-12), 2600 and 2626 Sir Francis Drake Boulevard (Assessor's Parcel Numbers 174-070-50 and 17) and School Street Plaza (Assessor's Parcel Number 001-112-13) be rezoned to Planned Development District (PDD); and
- California Government Code § 65860(C) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and
- Ordinance 778, among other actions, deletes all references to the CH zoning district and rezones all properties previously zoned CH to CC, provides for a certain parcels to be rezoned Planning Development District (PDD) and identifies those parcels, includes a Public Domain (PD) zoning district and identifies the parcels belonging in the PD zoning districts in order to effect General Plan Program LU-7.1.1.2 as well as to achieve conformance with the zoning map depicted in General Plan Figure LU-2; and

Section 3. The Planning Commission finds that Ordinance No. ____, repealing Ordinance 778, does not comply with California Government Code § 65860(C) because its adoption will result

in the Town Zoning Ordinance being out of compliance with the 2010-2030 Fairfax General Plan which was unanimously adopted by the Town Council on April 4, 2012

A roll call was taken:

Kehrlein, Ezzet, Hamilton, Ketcham, LaMotte, Gonzalez-Parber AYES

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:22 p.m.

Respectfully submitted,

Joanne O'Hehir

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, June 19, 2014

Call to Order/Roll Call

Chair Ketcham called the meeting to order at 7:00 p.m.

COMMISSIONERS PRESENT: Roxanne Ezzet
Esther Gonzalez-Parber
Philip Green
Shelly Hamilton
Brannon Ketcham (Chair)
Shelby LaMotte
Laura Kehrlein (Vice-Chair) (arr. 7:04 p.m.)

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

APPROVAL OF AGENDA

M/s, LaMotte/Green, Motion to approve the agenda:

AYES: Ezzet, Gonzalez-Parber, Green, Hamilton, Ketcham, La Motte
ABSENT: Kehrlein

PUBLIC COMMENTS ON NON-AGENDA ITEMS

No-one from the public came forward to speak.

CONSENT ITEMS

1. **97 Crest Road; Application # 14-19 – is being removed from the agenda. See staff report for an explanation:** Request for a Ridgeline Scenic Corridor Permit and Use Permit to construct a 557.23 square foot, bedroom, bathroom and hallway addition to an existing 1,300 square foot single-family residence; Assessor's Parcel No. 002-181-18; Residential Single-family RS 6 Zone; Troy Luchessi, applicant/owner; CEQA categorically exempt, § 15301(e)(1).
2. **72 Monte Vista Way; Application # 14-20:** Request for a Use Permit to convert and expand a 678 square foot storage laundry area in an existing single-family residence into a 762 square foot recreation room bathroom and laundry room increasing the square footage of the structure from 2,268 square feet to 2,315 square feet; Dermot Whelan, applicant; Gary Anderson, owner; CEQA categorically exempt, § 15301(e)(1).

Commissioner Green recused himself because he lived within 300 ft of 72 Monte Vista.

M/s, LaMotte/Ezzet, Motion to approve Consent Items:

AYES: Ezzet, Gonzalez-Parber, Hamilton, Ketcham, LaMotte
ABSTAIN: Green
ABSENT: Kehrlein

Chair Ketcham read the appeal rights.

PUBLIC HEARING ITEMS

3. **1966 Sir Francis Drake Boulevard; Application 14-2 (modification):** for Design Review and modification of a previously approved Use Permit to convert 1,530 square feet of an existing commercial building to a combination of office, food preparation, cooking demonstration and retail use and to install 2 windows and 3 skylights; Assessor's Parcel No. 001-221-12; Central Commercial CC Zone District (may change back to Highway Commercial CH Zone District if Ordinance 778 is repealed); Morgan Hall, Architect/applicant; Mark Squire, owner; CEQA categorically exempt, § 15301(a).

Senior Planner Neal presented the staff report, when she provided background information on the project. She noted that the proposed modification to the original Use Permit would require the adoption of a new Resolution. She discussed the exterior changes that consisted of the addition of windows and skylights. Ms. Neal said that staff could recommend approval of the changes to the Use Permit and design, along with a request to change the hours of operation in order to hold events in the evening.

Ms. Neal and Commissioner Green discussed shipping containers in the vicinity of the building and Ms. Neal noted that a condition had not been proposed to have them removed. She also noted that a lot line adjustment would need to be approved if openings were added to a certain part of the building, which had also not been proposed.

Chair Ketcham and staff discussed the request for extended opening hours.

In response to Chair Ketcham, Morgan Hall, Project Architect, said that they were looking for more flexibility in opening hours to allow for cooking classes.

Commissioner Gonzalez-Parber discussed her concerns with Mr. Hall that the later opening hours might impact the neighborhood. Mr. Hall confirmed that there would not be additional lighting to that shown on the plans and that they would be applying for a sign permit, which might be illuminated.

Commissioner Green and Mr. Hall discussed deliveries, which Mr. Hall confirmed would be limited.

Chair Ketcham and staff discussed the Resolution.

Commissioner Ezzet and Mr. Hall discussed the number of visitors that could be expected should the retail/mixed use space and the museum both open late for separate events.

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

General discussion on the Resolution took place between the commissioners and the business owner was invited to speak.

Lisa Shanower, CEO of Miyoko's Kitchen, discussed the nature of the events for which they had requested extended hours of operation.

M/s, Ezzet/Gonzalez, Motion to approve Application 14-2, Resolution No.14-8, for Design Review and modification of a previously approved Use Permit to convert 1,530 square feet of an existing commercial building to a combination of office, food preparation, cooking demonstration and retail use and to install 2 windows and 3 skylights at 1966 Sir Francis Drake Boulevard with the following amendments to the Resolution:

That Condition 13 relating to indemnification shall be amended to read as follows:

The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

That Condition 16 relating to other agencies be renumbered 15; and

New Conditions:

16. Deliveries shall be limited to _____
17. The commercial kitchen hours shall be from _____
18. The office/retail/demonstration kitchen may stay open until 10 p.m. three days per week.
19. A new wood-burning oven may not be installed.

That a finding was made that the demonstration kitchen would not be expected to generate significant amounts of traffic and noise.

AYES: All

Chair Ketcham read the appeal rights.

4. **6 Bridge Court; Application # 14-15:** Continued consideration of a Use Permit, Variances and Design Review of a remodel/expansion of a 1,386 square foot, three bedroom, 1 bath single-family residence into a 1,753 square foot, 3 bedroom, 3 bath residence increasing the structure square footage by 367 square feet and raising the finished floor elevation of the existing portion of the house and increasing the height of the house by 5 feet; Residential RD 5.5-7 Zone; Assessor's Parcel No. 002-105-13; Rich Rushton, Rushton-Chartock Architects, applicant; Lee Mac Pherson and Rae Gordon, owners; CEQA categorically exempt, §§ 15301(a), (e)(1) and 15305(a).

Senior Planner Neal presented the staff report. Ms. Neal explained that the structure was in the flood zone and that the request had been made to raise the floor elevation and overall height (which required a Variance), in order to raise the structure out of the flood plain. She noted that the project constituted a 50% remodel, which therefore required Design Review, and that, since the lot did not meet the minimum size and width requirements based on the slope, a Use Permit had been requested. Ms. Neal also discussed the necessity of a Parking Variance in order to bring parking into compliance. She noted that staff believed sufficient space existed between the parking space and the neighboring property in order to meet the intent of the law.

Ms. Neal discussed design review, which included techniques to minimize massing and the preservation of the neighbor's privacy by the replacement of larger windows with smaller windows. Ms. Neal said that staff believed the project's design elements met the criteria in the Ordinance and that they could, therefore, recommend approval based on the findings and conditions in the staff report.

Chair Ketcham and Ms. Neal discussed the proposed height increase in relation to the downslope lot.

In response to Vice-Chair Kehrlein, Ms. Neal clarified certain pages of the plans.

In response to Commissioner Hamilton, Ms. Neal discussed the setback between the neighbor's house and the parking space.

Rich Rushton, Architect, noted that they would be expanding a bedroom office upstairs, removing office space and adding a kitchen downstairs. He confirmed that they would be moving the structure further away from the creek.

Commissioner Gonzalez-Parber discussed the windows with the architect.

Chair Ketcham opened the public comment period.

Dustin Liebman, Dominga Avenue, who also represented Laura Kenton and Grahame Kenton of Dominga Avenue, expressed his concern with the proximity of the addition to their house, the length of time the remodel would take, and a top floor window that might cause privacy issues. Mr. Liebman requested that the item be continued to a date when the Kentons could attend the hearing.

Senior Planner Neal noted that action needed to take place this evening due to the Permit Streamlining Act. Ms. Neal discussed the bathroom window that concerned the Kentons.

Chair Ketcham closed the public comment period and noted that the window concerned was a clerestory window to let in light. Mr. Rushton said that they could move the window to a different wall and confirmed that the project should take approximately four and a half months to build.

Planning Director Moore discussed the hours of standard construction times and there was general agreement that the project should adhere to those times.

Commissioner LaMotte said that it was a great design and that she supported the project.

Commissioner Green said that the design should be a model for other creek side homes similarly situated.

Vice-Chair Kehrlein echoed the comments of the previous commissioners and Chair Ketcham commended the architect for moving the structure further away from the creek.

M/s, LaMotte/Gonzalez-Parber, Motion to approve Application # 14-15 for a Use Permit, Variances and Design Review of a remodel/expansion of a 1,386 square foot, three bedroom, 1 bath single-family residence into a 1,753 square foot, 3 bedroom, 3 bath residence increasing the structure square footage by 367 square feet and raising the finished floor elevation of the existing portion of the house and increasing the height of the house by 5 feet at 6 Bridge Court with the following additional Conditions of Approval:

Condition 10: The neighbors at 93 Dominga and the applicant and their architect shall meet to discuss whether the upstairs bathroom widow should be moved to a different side of the structure or that frosted glass be used in the same location;

Under 2a, a bullet point shall be added that stipulates the estimated completion time of the project, which must be in a timely fashion.

AYES: All

Chair Ketcham read the appeal rights.

5. **1 Arrowood Lane; Application # 14-22:** Request for a Hill Area Residential Development and Excavation Permits, and Design review of a 3,327 square foot single-family residence with a 600 square foot detached garage; Assessor's Parcel No. 174-290-01; Residential Single-family RS 6 Zone District; Monica Ream, Aleck Wilson Architects, applicant; Dale Van Fossan, owner; CEQA categorically exempt, § 15303(a) and 15303(e).

Senior Planner Neal introduced the staff report, when she discussed the Superior Court case that regulated building in the Arrowood subdivision. Ms. Neal discussed the agreement that was reached, which included the establishment of the building envelopes for the various homes within the subdivision and the allowable living space square footages. However, she noted that the project still needed to comply with the Town's height requirements, and parking and lighting regulations.

Ms. Neal discussed the requested Excavation Permit, which the Town Engineer had determined could be approved because he believed the improvements could be made without negatively impacting the surrounding properties and the public. Staff recommended approval of the Resolution with the removal of part of the condition that related to the swimming pool and the addition of a further condition of approval that related to compliance with other agencies.

Commissioner Green and Ms. Neal discussed the project in relation to the Hill Area Residential Permit and Excavation Permit. Ms. Neal noted that the Town Code missing on page 5 of the staff report was 12.20.080(b).

Commissioner Ezzet and Planning Director Moore discussed the different house designs in the subdivision.

Commissioner Green expressed concern that tree removal might be necessary. He discussed adding a condition that related to the financing of the project, which Mr. Moore said would be inadvisable.

Dale Van Fossan, owner and builder, said that his future home would blend into the hillside but that he did not wish it to emulate other designs in the neighborhood. Mr. Van Fossan said that they hoped not to remove a bay tree, which might need to be removed.

In response to Chair Ketcham, Mr. Van Fossan discussed the downward lighting that appeared on the plans.

Vice-Chair Kehrlein said it was a fabulous design, with which Commissioner Ezzet concurred.

Commissioner Gonzalez-Parber said that she would prefer to see a gabled roof, which she discussed with Mr. Van Fossan.

Chair Ketcham opened the public comment period.

Bob Anderson, 4 Arrowood, said that he and their neighbors appreciated the owner's efforts to clear the land of broom. He commented on the design, which he said they favored.

Chair Ketcham closed the public comment period.

Commissioner Green said that the structure was one of the more beautiful designs he had seen and that it would blend into the hillside.

Commissioner LaMotte commented on the site and commended the landscape plan.

M/s, Kehrlein/LaMotte, Motion to approve Application # 14-22, a request for a Hill Area Residential Development permit and Design review of a 3,327 square foot single-family residence with a 600 square foot detached garage at 1 Arrowood Lane:

AYES: All

Chair Ketcham read the appeal rights.

6. **73 Willow Avenue; Application # 14-24:** Request for a Use Permit and Parking Variance to legalize an unpermitted 351 square foot residential second unit contained in the basement of an existing 1,113 square foot residence; Assessor's Parcel No. 001-204-41; Residential RD 5.5-7 Zone; Maria Allis, applicant/owner; CEQA categorically exempt, § 15301(a), 15301(e)(1) and 15303(a).

Senior Planner Neal presented the staff report. She discussed the second unit, which she noted had been built in a portion of the garage. Ms. Neal said that the owner lived in the main residence, which conformed to the Second Unit Ordinance regulations that the owner must reside in the primary residence or second unit. However, she noted that a size exception had been requested because the size of the second unit exceeded the 30% maximum allowable size of the main residence, but that it did not exceed the maximum allowable space of 700 square feet. Ms. Neal said that the size met the intent of the Ordinance to keep the unit small and, thus, staff could support a variance.

Ms. Neal discussed parking in relation to the Ordinance. She said that the applicant had requested an exception to the parking regulations to allow tandem parking and parking in the side yard setback in order to meet the parking requirements.

Ms. Neal said that staff recommended approval of the project based on the findings and conditions in the staff report with the additional condition that a gravel driveway should be

denied in favor of a different permeable material, and the addition of the standard condition that the conditions applied by other agencies could be waived on written consent to the Town.

Commissioner LaMotte requested that the Public Works Director be asked to use his discretion to allow part of the driveway to be graveled.

Commissioner Gonzalez-Parber and Ms. Neal discussed the drawings, which Commissioner Gonzalez-Parber said she found confusing. Ms. Neal said that the Planning Department did not necessarily hold homeowners to the same standards as design professionals when submitting plans. They discussed parking.

Planning Director Moore said that staff believed the plans had included sufficient information and that their main concern had been to encourage owners of illegal second units to comply with the town's policies on second units.

Maria Allis, owner, discussed their gravel driveway. She noted that members of her family occupied the second unit.

Commissioner Green commented on the project having been constructed without permits, and Ms. Allis said that they had not understood that they were doing any wrong.

Chair Ketcham opened and then closed the public comment period when no one came forward to speak. He said that he felt comfortable with staff undertaking the building inspections. Chair Ketcham commented on the need for covered parking, which he thought did not add anything to the project, and he confirmed that he could support the parking variance in order to provide on-site parking.

Commissioner Ezzet noted that affordable housing was needed and that the applicants were taking steps to comply with the regulations. She discussed her concern regarding the overall effect on neighborhoods should more applications come forward for second units that did not meet the size requirements.

General discussion on second unit size took place. Vice-Chair Kehrlein said that the second unit seemed too large and she used size comparisons from other cities. Ms. Neal said that the second unit could not be considered to be part of the main residence because a second kitchen would not be allowed.

Chair Ketcham expressed his concern with the planning commission's choice between approving the Resolution or requiring the removal of the unit if the application were denied.

Ms. Neal discussed the Second Unit Ordinance in relation to the project and the waiving of the requirement for covered parking in relation to the findings.

M/s, LaMotte/Ezzet, Motion to approve Application # 14-24, a request for a Use Permit and Parking Variance to legalize an unpermitted 351 square foot residential second unit contained in

the basement of an existing 1,113 square foot residence at 73 Willow Avenue with the following additional conditions of approval:

11. The parking area shall include a hardened apron of a depth to be determined by the Public Works Department.
12. All conditions of agencies with jurisdiction over the project must be complied with unless that agency waives one or more of them in writing to the Town. **(THIS IS VERY SIMILAR TO CONDITION NO. 5 IN THE STAFF REPORT).**

A roll call took place.

AYES: Green, Ezzet, Ketcham, Hamilton, LaMotte
NOES: Kehrlein, Gonzalez-Parber

Chair Ketcham announced the appeal rights and a 10-minute break at 9:45 p.m.

MINUTES

7. Minutes from the May 15, 2014 meeting.

M/s, Hamilton/Gonzalez-Parber, Motion to continue the minutes from May 15, 2014 to the next meeting due to them being incorrectly noticed.

AYES: All

PLANNING DIRECTOR'S REPORT

Planning Director Moore discussed a meeting held by the Chamber of Commerce to which he had been invited to discuss the General Plan and Housing Element.

Mr. Moore said that Council had directed staff to prepare a General Plan forum to take place at 1 p.m. on Saturday, July 12th, and that a professional facilitator would facilitate the proceedings.

Mr. Moore said that the disposition of the petition regarding repealing Ordinance 778 would be discussed at the Council's meeting on July 2nd. They will discuss the recommendation made by the Planning Commission not to repeal the Ordinance or will consider whether the ordinance should be repealed and put on the ballot.

Commissioner Hamilton and Mr. Moore discussed noticing the public forums.

DISCUSSION ITEMS

8. Zoning Ordinance: Issues list creation/update

Following the evening's discussions, carports, parking and gravel driveways were added to the Zoning Ordinance list.

General discussion on the prioritizing of tasks took place and there was general consensus that staff should concentrate on revising the Housing Element. Mr. Moore discussed the timeline for the Housing Element in relation to the development of affordable housing in Fairfax.

Mr. Moore reported that he had been appointed to the Technical Advisory Committee to the Transportation Authority of Marin. He discussed a grant that they had been awarded.

Chair Hamilton and Mr. Moore discussed the Housing Element omissions, inconsistencies and errors that needed to be corrected. Mr. Moore said that the process would start with the public forum, after which a comprehensive list of what needed to be amended would be made and presented to the Council.

In response to Commissioner Green, Mr. Moore confirmed that a consultant would be addressing the questions raised by the public at the last Planning Commission meeting regarding the repeal of Ordinance 778.

ADJOURNMENT

A motion was made, seconded and approved to adjourn the meeting at 10:35.

Respectfully submitted,

Joanne O'Hehir