

DRAFT Town of Fairfax Planning Commission Minutes
Fairfax Women's Club
Thursday, September 25, 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 (arr. 7.05 p.m.)

COMMISSIONERS ABSENT: Philip Green

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

APPROVAL OF AGENDA

M/s, Hamilton/Ezzet, 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. **402 Scenic Road; Application # 14-29:** Request for a Use Permit and Variance(s) for reconstruction and expansion of a 300 square foot, one car parking deck into a 387 square foot, two car parking deck and expansion of the rear pedestrian deck of a single-family home; Assessor's Parcel No. 001-051-05; Residential Single-family RS 6 Zone District; Leo den Ouden, applicant/architect; Matthew and Jennifer MacDonald, owners; CEQA categorically exempt, § 15301(e), 15303(e) and 15305(a).
2. **255 Olema Road; Application # 14-28:** Request for a Use Permit to construct a number of small additions (a total of 129 square feet) onto a single-family residence increasing the square footage from 2,754 square feet to 2,883 square; Assessor's Parcel No. 001-071-19; Residential Single-family RS 6 Zone District; Fred and Vicky Divine, applicants/owners; CEQA categorically exempt, § 15301(e)(1).

In response to Commissioner Ezzet, Ms. Neal confirmed that a secondary unit was not part of the application.

3. **2 Claus Circle; Application # 14-33:** Request for a Use Permit to raise the roof over the existing garage 5 feet 6 inches to construct 462 square foot master bedroom/bath addition to the 1028 square foot residence; Assessor's Parcel Numbers 003-081-12 and 22; Residential Single-family RS 6 Zone District; Daniel and Adrienne Peixotto, applicants/owners; CEQA categorically exempt, § 15301(e)(1).

M/s, Gonzalez-Parber/Hamilton, Motion to remove 2 Claus Circle from Consent to the first public hearing item.

AYES: All

M/s, Ezzet/Gonzalez-Parber to approve the Consent Agenda.

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

Chair Ketcham read the appeal rights.

PUBLIC HEARING ITEMS

1. **2 Claus Circle; Application # 14-33:** Request for a Use Permit to raise the roof over the existing garage 5 feet 6 inches to construct 462 square foot master bedroom/bath addition to the 1028 square foot residence; Assessor's Parcel Numbers 003-081-12 and 22; Residential Single-family RS 6 Zone District; Daniel and Adrienne Peixotto, applicants/owners; CEQA categorically exempt, § 15301(e)(1).

Principal Planner Neal presented the staff report. Ms. Neal explained that the applicants wished to raise the raise the roof over the garage in order to make use of existing space, which was currently unusable, to construct a master bedroom, walk-in closet and bathroom addition. She said that a Use Permit would be required due to the substandard size of the lot, although she noted that the proposal would meet the setbacks, floor area ratio and height requirements. Ms. Neal noted that the structure would be one of the few two-story homes in the neighborhood but that its overall size and design would not be out of character with other structures in the area. Staff could, therefore, support the project.

The applicant, Dainiel Peixotto, and the architect discussed their proposal to add space above the garage.

Commissioner Gonzalez-Parber and the architect discussed adding a design feature over the garage to break up the massing on the street side.

In response to Commissioner Ezzet, Ms. Neal said they had not received any complaints.

M/s, LaMotte/Ezzet, Motion to approve Application # 14-33, a request for a Use Permit to raise the roof over the existing garage 5 feet 6 inches to construct a 462 square foot master bedroom/bath addition to the 1028 square foot residence at 2 Claus Circle with the additional Condition of Approval:

Condition 10: An architectural detail or material change shall be made to improve the aesthetic quality of the façade facing Claus Circle.

AYES: All

Chair Ketcham read the appeal rights.

2. **48 Geary Avenue; Application # 14-31:** Continued consideration of a request for a Hill Area Residential Development Permit, Variances and an Encroachment permit for a 50% remodel/expansion of an existing single-family residence, including the construction of a 342 sq ft two-car parking deck. The project will increase the residence from 1,331 square feet to 1,768 square feet, an increase of 437 square feet, but will not add any additional bedrooms resulting in a two bedroom, two ½ bath residence; Assessor's Parcel No. 001-215-13; Residential Single-family RS 6 Zone District; Jeffrey Mahaney, applicant/architect; Tim Halikas, owner; CEQA categorically exempt, § 15303(a), 15303(e), 15305(a) and 15305(b).

Principal Planner Neal presented the staff report, when she discussed background information on the project. Ms. Neal noted that the applicant had submitted a revised site plan that showed redesigned decks to meet the minimum 3 foot side setbacks. Furthermore, a new color pallet had been submitted showing darker colors. Ms. Neal confirmed that staff could recommend approval of the project with the Conditions of Approval.

In response to Commissioner Hamilton, Ms. Neal confirmed that the amendments to the previous submission consisted of the redesign of the decks to meet the setbacks and the color pallet.

Tim Halikas, owner, said that he had consulted his neighbors regarding the size of the proposed house and colors, which he discussed.

Randy and Sarah Engle, Taylor Avenue, said that they believed the proposed 3-story structure would dominate the neighborhood and be out-of-character due to its size. They said they did not support the project.

Chair Ketcham and Ms. Neal discussed 3-story structures and Chair Ketcham noted that the proposed structure complied with the code.

Ms. Neal and Commissioner Hamilton discussed the setbacks, when Ms. Neal noted that some encroachment into the setbacks would be necessary because the size of the lot was substandard.

Commissioner LaMotte said that the color pallet was a great improvement and she noted that the owner had a right to develop his property.

Commissioner Hamilton discussed the design and said that the applicants had worked with the setbacks. Commissioner Hamilton said that she liked the darker color pallet.

Commissioner Gonzalez-Parber said that the lot was tough and that the rooms would be modest in size. She said that the structure would not be a problem when viewed from the street.

Vice-Chair Kehrlein said that she had hoped more effort would be made to address the vertical walls of the modern design. She said she liked the color change but that she was not entirely comfortable with the massing.

Chair Ketcham noted that little discussion had taken place with the neighbors but that he believed the project would be an improvement in the neighborhood. Chair Ketcham discussed general parking difficulties.

M/s, LaMotte/Gonzalez-Parber, Motion to approve Application #14-31, a request for a Hill Area Residential Development Permit, Variances and an Encroachment permit for a 50% remodel/expansion of an existing single-family residence, including the construction of a 342 sq ft two-car parking deck. The project will increase the residence from 1,331 square feet to 1,768 square feet, an increase of 437 square feet, but will not add any additional bedrooms resulting in a two bedroom, two ½ bath residence at 48 Geary Avenue, with the revised site plan and green color swatches.

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

Chair Ketcham read the appeal rights.

5. **1599 Sir Francis Drake Blvd.; Application # 14-34:** Request for a use permit for a mixed use providing retail wine sales and a wine tasting bar also serving food in an 833 square foot suite in an existing 5,617 square foot commercial building; Assessor's Parcel No. 002-213-27; Highway Commercial CH Zone District; Michelle Johnston, applicant; Doug and Jill McIntosh, owners; CEQA categorically exempt, § 15301(a).

Commissioner Kehrlein recused herself from the podium and Principal Planner Neal presented the staff report. Ms. Neal provided background information on the project, when she discussed the reasons why a Use Permit was necessary, which related to zoning. Ms. Neal discussed the retail area, which she said would include a tasting bar and seating. She also discussed the hours of operation. Ms. Neal said that staff did not believe that traffic and parking would increase significantly as a result of the business and that, overall, staff could support the application.

In response to Chair Ketcham, Ms. Neal confirmed that the owners of The Daily Method also owned the building.

In response to Commissioner LaMotte, Ms. Neal said that the Fire and Health Departments would need to review the plans at the building permit stage.

Ms. Neal clarified the square footage of the building in response to Commissioner Gonzalez-Parber.

Kristina Baumsteiger, Applicant, discussed the project. She said that they would be establishing an international retail wine shop and tasting bar, serving small food items for which they would not need a full service kitchen. Ms. Baumsteiger discussed the retail space.

Chair Ketcham opened the public comment period.

Wayne Van De Walker, Sir Francis Drake Blvd, discussed his concern that there was insufficient parking. He also said that the parking lot for the building was generally unkempt with empty liquor bottles and abandoned shopping carts.

Rose and Frank Milani, Bell Avenue, also noted that there was insufficient parking. They said that they did not support the proposed project.

Ms. Baumsteiger said that she spoke to a dentist that practiced across the street, who said they would be willing to provide parking spaces from Thursday through Saturday.

In response to Chair Ketcham, Ms. Neal said that the parking variance had been granted as part of a previous project and that staff did not believe the requested use warranted review of the variance.

Planning Director Moore discussed the lack of parking, which he noted was a town-wide issue that would be addressed by the General Plan.

Chair Ketcham and Mr. Moore discussed shared parking with another business and the problem reported of the unkempt parking lot. Mr. Moore said he would take the matter up with the owners of The Daily Method.

M/s, Hamilton/Ezzet, Motion to approve Application # 14-34, a request for a use permit for a mixed use providing retail wine sales and a wine tasting bar also serving food in an 833 square foot suite in an existing 5,617 square foot commercial building at 1599 Sir Francis Drake Blvd, with the following amendments to the Resolution and Conditions of Approval:

Following, "WHEREAS, the Commission has made the following findings", Condition 6 shall be amended to read:

"Granting of the Use Permit will not result.....free flow of traffic, nor does it extend beyond the original parking variance granted on June 20, 2013";

Condition 8 shall amended to read, "The small size and location.....many of whom will walk or ride their bike".

Condition 9 shall be redacted;

No. 10 shall be amended to No. 5.

AYES: All

Chair Ketcham read the appeal rights and Vice-Chair Kehrlein resumed her place on the podium.

6. **2001 Sir Francis Drake Blvd.; Application # 14-35:** Request for design review of proposed exterior changes to a 1,950 square foot, commercially zoned property; Assessor's Parcel No. 002-116-04; Highway Commercial CH Zone District; Ron Jacobs, PM Design Group, applicant/architect; Arash Salkhi, owner; CEQA categorically exempt, § 15301(a).

Principal Planner Neal presented the staff report. She explained that the owner has had inquiries from potential buyers and /or renters who were interested in the site for food service businesses. The applicant had requested design review approval to make changes to the property, which included the removal of pump dispensers and a canopy, in order to make it more suitable for a different business use. Ms. Neal noted that the zoning allowed for various food businesses, which she discussed.

Ms. Neal discussed traffic impacts, which the Town Engineer had reviewed, and traffic circulation and parking, when she noted that the applicant had redesigned the parking lot to improve on-site circulation and decrease the number of driveway interruptions for Sir Francis Drake Blvd.

Ms. Neal expanded on the design aspects of the project, which included decorative trellises, roof repair and a new color for the siding, in addition to new landscaping. Ms. Neal said that a new proposed sidewalk had been included in the plans and new signage, which she discussed. Staff had recommended that the monument sign face should be of wood or metal, rather than plastic, with different lettering. Ms. Neal noted that the monument sign needed an exception to the code, the findings for which she discussed.

Ms. Neal concluded that, with the exception of the monument sign, staff recommended approval of the project.

Planning Director Moore confirmed that the egress did not utilize the Bank Street right-of-way, which had concerned the Town Engineer.

Chair Ketcham and Mr. Moore discussed egress.

Vice-Chair Kehrlein and Mr. Moored discussed reducing the number of parking spaces on site for reasons associated with the proposed new zoning.

Chair Ketcham discussed the monument sign with staff. Planning Director Moore made suggestions as to what the Commissioners should approve and what should be left to staff's discretion.

Ron Jacobs, Project Architect, presented materials to the Commissioners. He said they were flexible with the sign. Mr. Jacobs discussed the lighting of the sign with Vice-Chair Kehlein.

Commissioner LaMotte and Mr. Jacobs discussed the roof materials.

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

Commissioner Ezzet said that she liked the use and the design and that the number of parking spaces should not be reduced.

M/s, Gonzalez-Parber/LaMotte, Motion to approve Application # 14-35, a request for design review of proposed exterior changes to a 1,950 square foot, commercially zoned property at 2001 Sir Francis Drake Blvd., with the following additional Condition of Approval:

Condition 18: The sign face shall be of wood, externally lit and the final sign copy will be subject to the Planning Director's approval.

AYES: All

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

7. **Formula Business Ordinance:** Consideration for recommendation to the Town Council of a draft Ordinance amending Town Code Chapter 17.096 to include language regulating formula businesses in the Highway Commercial CH Zone Districts and Chapter 17.100 to amend/update the formula businesses regulations in the Central Commercial CC Zone Districts; CEQA exempt, 14 C.C.R. § 15061(b)(3).

Planning Director Moore presented the staff report. Mr. Moore discussed a moratorium imposed by the Town Council, which included formula business uses, in relation to amending the Town Code. Mr. Moore noted that, unlike the language that related to the Central Commercial Zone (CC), the language in the code relating to the Central Highway Zone (CH) did not include formula business regulation. Furthermore, he said that the Town Attorney had advised that the language needed to be updated and applied to both zones.

Chair Ketcham and Mr. Moore discussed the proposed amendments in relation to the General Plan, which would be amended at a future date. Mr. Moore discussed the role of the Commission in the discussions, which he noted was advisory to the Town Council. He said that the Town Council had requested that the item be brought forward for the Planning Commission's discussion, which he discussed in relation to the repeal of Ordinance 778.

In response to Chair Ketcham, Mr. Moore discussed the process that would lead up to the rezoning of HC to CC, when further language discussion would be necessary. Mr. Moore noted that that staff had not been asked by the Town Council to provide a timeline for those discussions.

Commissioner LaMotte commented on the zoning changes being piecemealed together and said that she would encourage a prioritized approach.

Mr. Moore said that he would ask the Town Manager to address the critical path with the Commissioners. He discussed the action that was open to the Commissioners.

Commissioner Hamilton said progress had been made with the proposed business formula language in the ordinance. She discussed her concern that the language might not be consistently applied in the General Plan.

Following discussion among the commissioners, general consensus was reached that they would prefer the public forums on CH and CC zones to take place before the changes to the language were discussed and the amendments made to the Ordinance.

Mr. Moore discussed the way forward with the commissioners.

M/s, Ezzet/LaMotte, Motion to continue a draft Ordinance amending Town Code Chapter 17.096 to include language regulating formula businesses in the Highway Commercial CH Zone Districts and Chapter 17.100 to amend/update the formula businesses regulations in the Central Commercial CC Zone Districts to a date unknown with the presence of the Town Manager.

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

8. **Sign Ordinance Amendment:** Consideration for recommendation to the Town Council of a draft Ordinance amending Town Code Chapter 17.064, Signs, to include regulations for non-commercial signs; CEQA exempt, 14 C.C. R. § 15061(b)(3).

Planning Director Moore presented the staff report. He explained why the Town Council had requested staff and commissioners to explore extending the restriction of non-commercial signs (including political signs) from 30 days to 60 days, which related to the use of absentee and mail-in ballots.

Commissioner LaMotte suggested a minor change to the language that related to lit signs under "Design Criteria".

Discussion on the presentation of the staff reports took place between staff and commissioners. There was general agreement that further discussion should be postponed to the next meeting.

M/s, LaMotte/Gonzalez-Parber, Motion to continue consideration for recommendation to the Town Council a draft Ordinance amending Town Code Chapter 17.064, Signs, to include regulations for non-commercial signs to the next scheduled Planning Commission Meeting.

AYES: All

MINUTES

9. Minutes from the August 21, 2014 meeting.

Page 2, In the title of the item for 225 Olema Road, change “22” to “225”.

Page 6, Amend “Vice-Chair Kehrlein commented on the car deck she expressed concern that the decks were in the setbacks”, to “Vice-Chair Kehrlein commented on the car deck.....she expressed concern that the decks did not have any setbacks”.

Page 7, After “Ms. Yandell and Vice-Chair Kehrlein discussed live music”, add “Ms. Yandall said that live music events had already taken place”.

Commissioner Gonzalez-Parber’s name to be removed from approval of agenda.

M/s, Kehrlein/LaMotte, Motion to approve the amended draft Minutes from the August 21, 2014 meeting:

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

DISCUSSION ITEMS

10. Zoning Ordinance: Issues list creation/update

Postponed to the next meeting.

11. Application submittal requirements including plan sizes.

Postponed to the next meeting.

ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:25 p.m.

Respectfully submitted,

Joanne O’Hehir

CALL TO ORDER

Chair Ketcham called the meeting to order at 6:07 PM.

Roll Call

Commissioners Present: Ezzet, Hamilton, Kehrlin, Ketcham, LaMotte

Commissioners Absent: Gonzalez-Parber, Green,

Staff Members Present: Garrett Toy, Town Manager
Jim Moore, Director of Planning and Building Services

AGENDA

M\S, Hamilton – LaMotte, motion to approve the agenda as submitted.

Formula Business Ordinance - Continued consideration for recommendation to the Town Council of a draft Ordinance amending Town Code Chapter 17.096 to include language regulating formula businesses in the Highway Commercial CH Zone Districts and Chapter 17.100 to amend/update the formula businesses regulations in the Central Commercial CC Zone Districts; CEQA exempt, 14 C.C.R. § 15061(b)(3).

Chair Ketcham thanked Mr. Toy for attending.

Manager Toy indicated that the Town Council adopted an urgency Ordinance prohibiting the processing of formula business applications in August and then extended in for 10 months and 15 days in September. The Council also directed staff to add language to regulate formula businesses in the Highway Commercial CH Zone and to modify the language in the Central Commercial CC Zone regulations. He indicated that he understands that the Commission has questions about the Council's approach to processing the change of properties zoned CH to CC.

Chair Brennan stated that the Commission wants to know the Council's plan and approach and whether the next workshop has been scheduled because that affects the implementation of the General Plan. They want to know what the critical path will be.

Mr. Toy stated that the Council changed all the CH Zones to CC but then rescinded the change once there was the threat of a referendum and decided to schedule workshops to discuss the matter.

Chair Ketcham asked if there was any discussion by the Council of having a separate ordinance regulating formula businesses in all the commercial zones to include the CS and CL Zones.

Manager Toy indicated that that option was not discussed by the Council.

Chair Brennan stated that it would be more in keeping with the General Plan if formula businesses were regulated in all the Commercial Zones.

Commissioner Hamilton wondered if the Commission could adopt the Resolution recommending the Ordinance changes but ask the Council to consider adopting a general Zone Change that would apply to all commercial properties. She reminded the other Commissioners that when the same language is placed in several locations throughout the Code when changes are made down the road, errors can occur if one sections is changed and others are not. Duplicative language creates the potential for errors.

Manager Toy indicated that there is not a time issue on this ordinance change so he can take it to the Council in January.

Chair Ketcham indicated that he would like to add an additional "whereas" to the Resolution that, "The formula business ordinance has been an essential and central tenet of the Town of Fairfax for some time now (since it the ordinance was originally adopted in 2002).

Commissioner Hamilton questioned if the wording of item F was intentional because if a business has to be consistent with all applicable General Plan goals, objectives, policies, and programs that sets the bar pretty high.

Commissioner LaMotte pointed out that the words, "all applicable" General Plan goals, etc. She wondered who makes the determination if a business complies or not.

Chair Ketcham agreed that the language allows flexibility and suggested that if a date needs to be included in the new whereas, the date the General Plan was adopted should be used.

M/S, Hamilton-LaMotte, motion to continue consideration of amendments to the Central Commission and Highway Commercial zones to regulate formula businesses to the November 20, 2014 meeting and amend it so that there is a separate ordinance regulating Formula Businesses and Restaurants in all commercial zones; and, to include the new "whereas" language in the Resolution as suggested by Chair Ketcham.

AYES: Ezzet, Hamilton, Kehrlin, LaMotte, Chair Ketcham

Noes: none

Sign Ordinance Amendment – Continued consideration for recommendation to the Town Council of a draft Ordinance amending Town Code Chapter 17.064, Signs, to include regulations for non-commercial signs; CEQA exempt, 14 C.C. R. § 15061(b)(3).

Manager Toy indicated that due to the increase in absentee mail-in ballots, the Council wants to extend the amount of time that election signs can be displayed. Also it is illegal to prohibit election signs but you can regulate non-commercial signs. Specifically, the ordinance allows non-commercial signs to be up for 67 days without a permit unless they exceed the size limit.

Chair Brennan indicated that section 17.064.030 combines political signs, holiday decorations and event posters and categorizes them as non-commercial signs in the design criteria. At the last meeting regarding Section 2 of 17.064.040 the Commission wondered if the section might be interpreted as "requiring lighting for non-commercial signs.

Manager Toy indicates that he believes that section was included to regulate holiday lights.

Commissioner Hamilton stated that she remembers the Commission adding the word "if" to the two lighting sections, 17.064.140(1)(F) and 17.064.140(2)(B), so that they read, "If there is lighting it shall be installed so as not to cause glare to passing pedestrians or motorists".

Commissioner Hamilton indicated, and Commissioner LaMotte agreed, that all sections that include, "non-commercial signs", where those signs are expected to be temporary, should have the word, "temporary" inserted.

Chair Ketcham questioned why all the design criteria that apply to commercial signs do not also apply to non-commercial signs.

Commissioner Hamilton used the example of a poster board sign advertising an upcoming event zip tied to a building post being a part of the building so why should they not be required to meet all the criteria listed in 17.064.140.

Manager Toy indicated that the Attorney's intent is just to get the Sign Ordinance up to date so it is more defensible if challenged.

There was agreement amongst the Commissioners that the word, "temporary" should be inserted in all locations where non-commercial signs is found throughout the Sign Ordinance if that is o.k. with the Town Attorney.

Manager Toy advised the Commission that he will forward the Town Attorney's e-mail comments on the Ordinance to them.

Chair Brennan pointed out that section # 4 was inadvertently left out of the ordinance this time but it was there when the Commission originally review it. It needs to be put back in. He also commented that he hopes that the Commission does not get into the habit of continuing proposed ordinance changes on a regular basis and for multiple meetings because that is not the most efficient way to get all the changes dictated by the General Plan into the Zoning Code.

M/S, LaMotte-Hamilton, motion to continue consideration of the sign ordinance changes to include the changes discussed at the meeting:

- Insertion of the word "if" in section 17.064.140(1)(F) and 17.064.140(2)(B).
- Inclusion of the word "temporary" in front of all occurrences of the words "non-commercial signs" if acceptable to the Town Attorney.

AYES: Ezzet, Hamilton, Kehrlein, LaMotte, Chair Ketcham

Director's Report

Director Moore advised the Commission that at next week's Town Council meeting 2 planning items will be discussed, the approval of a new contract for LAK and Associates and a report outlining a strategy for meeting the next round of requirements for the 5th cycle RENA, including trying to meet the fast track January 31st, 2015 deadline which will save the Town considerable money.

