

DRAFT Minutes of the Town of Fairfax Planning Commission
and Affordable Housing Committee (AHC) Meeting
Fairfax Women's Club
Wednesday, February 25, 2015

Call to Order/Roll Call

Mayor Coler called the meeting to order at 7:00 p.m.

COMMISSIONERS PRESENT: Roxanne Ezzet
Esther Gonzalez-Parber
Philip Green (Chair)
Laura Kehrlein

COMMISSIONERS ABSENT: Shelley Hamilton

COMMITTEE MEMBERS PRESENT: Barbara Coler (Mayor)
Tony Gardner
Peter Lacques
David Smadbeck
Mallory Geitheim

COMMITTEE MEMBERS ABSENT: Scott Hochstrasser

STAFF PRESENT: Tony Garrett, Town Manager
Jim Moore, Planning Director
Larry Kennings, Consultant
Joanne O'Hehir, Minutes Secretary

APPROVAL OF AGENDA

Planning Director Moore noted that the Commissioners and Committee members would be adopting a resolution recommending that the Town Council approve the Housing Element, only. He said that discussion on the Addendum, and adopting findings related to the Addendum, would take place when the Housing Element is returned by HCD (Department of Housing and Community Development) with their comments.

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

AYES: Ezzet, Green, Gonzalez-Parber, Kehrlein,

1. Public Hearing: Adoption of a Planning Commission Resolution Recommending that the Town Council Approve the 2015 Update Of the 2010 Housing Element.

Planning Director Moore introduced consultants, Amy Sinsheimer and Larry Kennings, before he presented the staff report. Mr. Moore said that the purpose of the evening's discussions is to

consider the update to the Housing Element and make recommendations to the Town Council for its approval. He noted that new census data and State requirements have been incorporated into the Housing Element.

Mr. Moore provided an overview of discussions on the Housing Element, which included a pre-draft workshop in November 2014, when comments were received from the public, in addition to public comments received at two workshop meetings on January 22, 2015. Mr. Moore said that the comments have been attached to the appendix of the Housing Element.

Mr. Moore reminded those present that the main components to the update of the Housing Element include the rollover of the existing opportunity sites in the current Housing Element and the addition of 16-second units to meet the Regional Housing Need Allocation (RHNA). If the Housing Element is adopted by May 31, 2015, the Town will be able to adhere to an 8-year cycle, rather than a 4-year cycle, before the Housing Element will need to be updated again. Furthermore, Mr. Moore said that the State is also requiring the Town to adopt an ordinance, prior to adopting the Housing Element, to accommodate zoning to allow for emergency shelters.

Mr. Moore reviewed a slide presentation of Housing Element tables that were presented at the November 2014 workshop. He discussed the ways in which the Town has been able to accommodate the required 69 units for the fourth and fifth cycles.

Mr. Moore discussed changes in the Housing Element that related to the tables. He explained that the document consisted of three parts, which are the narrative and the goals, policies and programs, and the appendix. Mr. Moore said that the edits should be substantive or provide clarification, but should not address the style. He provided examples that related to the opportunity sites.

Mr. Moore discussed the population age characteristics and household income trends in the Appendix, when he noted that the older population had increased, while the younger population had decreased since 2000. Mr. Moore noted that the population had increased in the above \$100,000 income range, while it had decreased in the income range between \$21,000 and \$99,000

Mr. Moore also discussed the table that related to employment by industry. He noted that the main increase had been in the professional classes, while there had been a decrease in the wholesale and resale trade and arts and entertainment.

Mr. Moore discussed the evening's proceedings. He said that the committee members and commissioners will review the three parts of the Housing Element and take public comment. Chair Green will be asked to entertain a motion to adopt the resolution recommending the Town Council approve the Housing Element with instructions for the document to be forwarded to the State for their review.

Committee Member Gardner discussed the needs assessment in the appendices. He noted that, due to the lack of affordable housing and continued reliance on cars, the town will continue to have greater congestion. He said that a solution would be to provide more affordable housing and

noted that there is a huge gap between those on low and very low-income levels and the rents available.

Councilmember Lacques suggested that the opportunity sites are identified by address, in addition to the parcel numbers. He noted that Fairfax's greatest need for housing is at the low and very low end and he asked if the housing ratio could be changed to provide more housing at the lower end.

In response, Ms. Sinsheimer said that some sites would allow lower income units, even though they are assigned moderate to above moderate-income units, which she discussed. She said that the zoning must be in place to accommodate the number of units required by REHNA in the different income categories.

Mr. Moore noted that the language satisfied the State but the Town could go beyond those requirements to promote truly affordable units.

In response to Committee Member Geitheim, Mr. Moore confirmed that, for the purposes of the Housing Element, the Town could not require zoning for low income units, only, but that HCD does not stipulate that they cannot be built in areas zoned for other types of income units.

In response to Councilmember Lacques, who asked if the Town needs to maintain the ratios provided for moderate, low and very low income levels, Mayor Coler confirmed that the number of units provided in the Housing Element across the income levels were necessary to meet the State's needs. She noted that, if a developer presents a proposal, the Town could try to require more low income units and Ms. Sinsheimer noted that the Housing Element does not stipulate which income levels are required in a zone.

In response to Chair Green, who asked if the Planning Commission would need to consider income levels when approving any of the 16-second units that have been proposed for affordable housing in the Housing Element, Ms. Sinsheimer said that it is already included in the analysis.

In response to Committee Member Gardner, Ms. Sinsheimer confirmed that there is a program included in the Housing Element stating that the Town would prefer the 16-second units be built for low-income households. Mr. Moore noted that language relating to junior second units has been added, in which it has been stipulated that such units should be a maximum of 500 sq. ft.

Commissioner Ezzet noted that moderate and above moderate-income level units help to maintain public services, which are difficult to fund with low and extremely low-income levels. For this reason, Commission Ezzet said that the State encourages diversity.

Committee Member Geitheim commented on the need to provide affordable housing to provide balance to an expensive property market.

Mayor Coler noted that there is a goal in the Housing Element to support extremely low and low-income housing to the extent feasible. She discussed the reasons why it is inadvisable to change the numbers of units in the various income ranges. However, Mayor Coler asked staff to craft a

general goal statement in the Housing Element stating that low and very low-income housing is preferable.

In response to Committee Member Geitheim, Ms. Sinsheimer discussed the provision of emergency shelters for the homeless. She said that the State requires the inclusion of a program for emergency shelters for the homeless in the Housing Element, which she discussed. Ms. Sinsheimer said that an ordinance must be adopted before May 31, 2015, to allow emergency shelters without the need for discretionary review.

In response to Mayor Coler, Ms. Sinsheimer said that an emergency shelter is classified as a place where, within a calendar year, a person may spend a maximum of 180 days.

Mr. Moore and Ms. Sinsheimer discussed emergency shelters. Ms. Sinsheimer said that such shelters would serve the homeless on a first come, first serve basis and that the Town should consider zoning areas that are consistent with similar uses that provide for a large assembly of people, such as churches. Ms. Sinsheimer said that the Town must satisfy the State that there is vacant land for the need to be accommodated in the zones stipulated. She noted that the State does not stipulate the number of beds that need to be accommodated, but she thought that planning for 20 beds would be acceptable, which could be stipulated in the Zoning Ordinance.

Ms. Sinsheimer and Committee Member Gardner discussed the homeless facilities table. Committee Member Gardner noted that there are three or four shelters in Marin.

Mayor Coler discussed the proposed edits, and made minor corrections, to the Draft Housing Element.

Mayor Coler, Mr. Moore and Ms. Sinsheimer discussed the language in the homeless shelter policy. Mayor Coler discussed her concern that the word “emergency” has not been included under program H-2.1.6.1, which she thought important. Mr. Moore said that staff would check the program language under the previous Housing Element, which he believed had been transposed to the current document.

Mayor Coler and Mr. Moore discussed Program H-1.1.1.4 relating to preserving existing lower income units. Mr. Moore acknowledged that Bennett House and Creekside are deed-restricted, however he said they are not considered “at-risk”. Mayor Coler suggested minor amendments to the language, which were made.

Mayor Coler suggested amending two outreach events to one event, which she thought the Town could manage, to which there was general consensus. There was general consensus to Mayor Coler’s recommendation that target dates be moved forward one year to provide more time to establish the programs.

Discussion took place on Mayor Coler’s suggestion that a proposal to provide funding by the town for rental assistance programs be removed because she thought the Town is unlikely to be in a position to provide such assistance. Town Manager Toy said that he could foresee the establishment of a future in-lieu program or rent-deposit program.

Mayor Coler, Mr. Moore and Ms. Sinsheimer discussed the policy concerning *Transit-Oriented Development State Density Bonus*. Mr. Moore noted that the maximum density bonus by State law is 35%, not 25%, as stated in the document. Mr. Moore noted that the law is currently in effect and that the Town would be crafting their own Ordinance.

Chair Green asked if the State Density Bonus could be considered an inclusionary ordinance if it is providing a greater density than required by the State. Ms. Sinsheimer explained the differences between an inclusionary ordinance and state density bonus, which she said are slight, and she noted that, under State Density Bonus law, the developer is entitled to incentives for building a certain number of affordable units, which encourages the development of affordable units.

Discussion took place on *Transit-Oriented Development Density Bonus*. Councilmember Lacques suggested applying the minimum State Density Bonus for reasons he discussed. Mr. Moore noted that the aim of the policy is to incentivize infill in the heart of town near transit, and Ms. Sinsheimer said that the Town could set the bonus level because the sites have not been included in the categories for affordable housing.

In response to Committee Member Gardner, Mr. Moore noted that a density bonus potentially applies to the two sites at 10 Olema and the Lutheran Church.

Mr. Moore noted that a developer of TOD would have the opportunity to take advantage of the density bonus and relaxed parking standards if they wished.

Discussion on the language for the policy on *Transit-Oriented Development Density Bonus* continued and adjustments were made, including striking "Density Bonus" in the heading and the density bonus percentage.

Discussion took place on the program related to *Projects Implemented with Affordable In-Lieu Fee Funds* and Mayor Coler explained why she believed the language related to buying down the cost of units and purchasing single-family homes to convert into duplexes should be removed. She said that the Town does not have the ability to fund such projects.

In response to Mayor Coler, Mr. Moore said that the Town is not considering a Green Building Standards Ordinance because the Town has already adopted the State's Green Building Standards. Ms. Sinsheimer noted that the Housing Element includes a program that she believes renders an ordinance unnecessary, which she discussed.

Mayor Coler noted that Fairfax is part of Marin Clean Energy, which was added to the section *Marin Climate and Energy Partnership*.

Mayor Coler noted that that the draft Housing Element states that comments were made by concerned citizens, but it does not say that the Town considered and addressed the comments to the extent feasible. Mr. Moore confirmed that staff would add appropriate language.

Vice-Chair Kehrlein noted an error in the table referring to major employers in Marin County, which Mr. Moore said would be corrected. Discussion took place on other data in the table that appeared to be wrong, which Mr. Moore said would be corrected and a note added that to the effect the data is somewhat dated.

Chair Green said that the acronyms in the House Element should be defined in the appendix, to which Mr. Moore agreed.

Committee Member Smadbeck confirmed that he would provide updated rental data for the Housing Element.

Councilmember Lacques requested a copy of definitions that relate to a government code section regarding the meaning of “identify” and “make available”, which are in the Housing Element. Mr. Moore suggested they meet to review the Housing Element.

Mr. Moore discussed Junior Second Units and the language that has been added to a section in the Housing Element. He noted that staff will be crafting an ordinance in the next year.

Mayor Coler opened the public comment period.

Wendi Kallins, Coalition for a Livable Marin, said that it is wrong to make substantial changes to policy before hearing from the public. Ms. Kallins said that, at the beginning of meeting, there seemed to be a real sense of providing as much affordable housing as possible and that some of the policies that have been recommended for removal encourage affordability. She strongly objected to the exclusion of policies that relate to the Town contributing towards the cost of affordable housing. Ms. Kallins discussed the State Density Bonus law in relation to transit-oriented development. She encouraged the Town to consider adopting a similar ordinance to the City of Larkspur, which requires a larger proportion of affordable housing for an increased density bonus than is mandated by the State. Ms. Kallins also suggested limiting the size of affordable housing units.

Jessica Green, Fairfax resident, said that the subject should be on the ballot to enable residents to have input because they do not know about the meetings or what is happening. Ms. Green commented on the density bonus in relation to additional market rate housing. She said that she supports low-income housing, but that more market rate housing is not needed and she does not support increased density for reasons she explained, including increased traffic.

Mayor Coler suggested that the density bonus law should be discussed at the Town Council meeting because it is confusing.

Alexander Binik, Fairfax resident, agreed with Ms. Kallins’ suggestion that affordable housing units should have a maximum size, which should be included in the housing element to encourage low and very low housing units. He said that a state program exists that allows constituencies to trade units in different categories and so he suggested that Fairfax could swap moderate income units for low-income units with other towns, albeit he noted that RHNA requirements need to met. Mr. Binik said that the density bonus law allows developers to pack

in more units, which will add to congestion and parking problems, which he thought should be taken into account. Mr. Binik discussed workforce housing. He suggested that the site at 10 Olema should be for low and very low-income units, only, with enough off-street parking for residents. He would encourage an ordinance for multi-housing developments that would encourage zero energy use.

Mayor Coler closed the public comment period. She asked if the issues discussed by members of the public could be addressed at the Town Council Meeting

Commissioner Ezzet said that the Town should not be in the business of owning or providing affordable housing, but that it should use creative solutions, such as introducing in-lieu fees, for example, or work with land trusts to ensure affordable housing remains in place. Commissioner Ezzet noted that it is not considered sustainable for a single parent with one or two children to live in a 400 sq. ft. unit, and that the Town needs to find solutions for families and not just single people, which it could consider during the next phase of the Housing Element.

Committee Member Geitheim said that the Town is not precluded from investing or co-investing in an affordable housing project with a partner if the investing language is removed. However, she said she would prefer that it is stated in the Housing Element that the Town is open to such opportunities.

Mayor Coler noted an error in the date of the Town Council meeting mentioned in the Resolution, which Mr. Moore said staff would check.

Councilmember Lacques said he would like aspirational language relating to investing in affordable housing to remain. Mayor Coler confirmed that she would propose removing the language and replacing it with language relating to the Town evaluating options to use funds to support affordable housing goals.

Councilmember Lacques and staff discussed limiting car ownership by deed restriction. Mr. Moore said that it should not be addressed in the Housing Element and Ms. Sinsheimer noted that there are projects that do not provide parking spaces for residents.

Councilmember Lacques, Chair Green and Mr. Moore discussed limiting the size of affordable housing units. Chair Green discussed the reasons why size should not be limited in the Housing Element or the Zoning Ordinance. Ms. Sinsheimer noted that some of the opportunity sites provide leeway for limiting the size of units, although the Town must meet its quota of different income levels.

Following discussion, there was general consensus that the language relating to the Town investing in affordable house should be removed.

M/s, Ezzet/Gonzalez-Parber, Motion to adopt Resolution 15-05 recommending that the Town Council approve the 2015 Housing Element, as amended, with the change of date of the Town Council meeting from August 5, 2014 to September 17, 2014 if records indicate that this date is correct.

AYES: Ezzet, Green, Gonzalez-Parber, Kehrlein,

Mr. Moore discussed the next steps for the Housing Element. He said that it would be reviewed by the Town Council at their meeting on March 18th, following which the document will be sent to HCD for review within 60 days. On its return, the Planning Commission will review the document and any accompanying comments from HCD at the April 16th meeting, or at a special meeting, before being reviewed and adopted by the Town Council at their meeting on May 6th, or at a special meeting.

A motion was made, seconded and unanimously approved to adjourn the meeting at 9:45 p.m.

Respectfully submitted

Joanne O'Hehir