

*DRAFT* Town of Fairfax Planning Commission Minutes  
Fairfax Women's Club  
Thursday, July 16, 2015

**Call to Order/Roll Call**

Vice-Chair Kehrlein called the meeting to order at 7:00 p.m.

**COMMISSIONERS PRESENT:** Bruce Ackerman  
Norma Fragoso  
Laura Kehrlein (Acting Chair)  
Mimi Newton

**COMMISSISONERS ABSENT:** Philip Green (Chair)  
Gonzalez-Parber  
Shelley Hamilton (Vice-Chair)

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

**APPROVAL OF AGENDA**

M/s, Fragoso/Newton, Motion to approve the agenda:

AYES: Ackerman, Fragoso, Kehrlein, Newon  
ABSENT: Gonzalez-Parber, Green, Hamilton.

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

No one from the public came forward to speak.

**CONSENT ITEMS**

1. **113 Hillside Drive; Application # 15-19:** Request for a Use Permit, Variances and an Encroachment Permit for a parking deck/storage structure and garbage enclosure, to expand the existing residence with a third floor storage room and access deck and to expand the second floor rear deck; Assessor's Parcel No. 002-092-45; Residential Single-family RS 6 Zone District; Ruth Todd and Daniel Baker, applicants/owners; CEQA categorically exempt, § 15301(a), 15301(e)(1) and 15303(e).
2. **22 Pacheco Avenue; Application # 15-20:** Request for a Use Permit for miscellaneous repairs and additions to a single-family residence including an entry porch cover, 6 foot tall fence replacement, garbage enclosure, laundry and rear deck/arbor replacement; Assessor's Parcel No. 002-122-38; Residential RD 5.5-7 Zone; Morgan Hall,

Applicant/Architect; Martha Noble and Lisel Blash, applicants; CEQA categorically exempt, § 15301(a) and 15303(e).

In response to Commissioner Fragoso, Principal Planner Neal provided clarification on structures that are proposed for removal and an accessory building.

3. **232 Hillside Drive; Application # 14-19:** Modification of a previously approved Hill Area Residential Development permit to enclose and convert an open storage area to a “garage like” storage shed; Assessor’s Parcel No. 002-181-02; Upland Residential UR 10 Zone District; Kelly and Deborah London, applicants/owners; CEQA categorically exempt, § 15301(a).
4. **138 Ridgeway Avenue; Application # 15-22:** Request for a Use Permit to use a 120 square foot prefabricated accessory structure as an artist studio; Assessor’s Parcel No. 001-214-21; Residential RS 6 Zone District; David and Idie Weinsoff, applicants/owners; CEQA categorically exempt, § 15303(e).
5. **69 Spruce Road; Application # 15-09:** Continued consideration of a request for a Preferential Parking Permit to create a 32 foot long by 9 foot wide parking space by constructing a retaining wall that will reach up to 7 feet in height. Project will also include reconstruction of the residence access stairway. The entire project will take place within the Spruce Road right-of-way along the property frontage; Assessor’s Parcel No. 001-145-01; Residential Single-family RS 6 Zone District; Wendy Oliveira, Farallon Company, applicant; Ellen De Martini, owner; CEQA categorically exempt, § 15301(4) and 15305(b).  
**Recommended for continuance until the August 20, 2015 Commission meeting.**

M/s, Fragoso/Ackerman, Motion to approve Consent, including continuing the item at 69 Spruce Road to the meeting of August 20, 2015:

AYES: Ackerman, Fragoso, Kehrlein, Newon  
ABSENT: Gonzalez-Parber, Green, Hamilton.

Commissioner Kehrlein read the appeal rights.

## **PUBLIC HEARING ITEMS**

6. **2001 Sir Francis Drake Boulevard; Application # 15-18:** Continued consideration of a request for a Use Permit for outdoor seating, Design Review of proposed exterior changes and site improvements, and a Parking Variance to have 1 less than the required number of parking spaces and less than the required dedicated delivery vehicle loading space; Assessor’s Parcel No. 002-116-04; Highway Commercial CH Zone District; Brian and Elizabeth Back, applicants; Arash Salkhi, owner; CEQA categorically exempt, § 15301(a) and 15303(c).

Principal Planner Neal explained that the applicant had been asked at the previous hearing to investigate alternative parking lot designs which would enable a vehicle to turn around in the

parking lot and exit onto Sir Francis Drake Blvd safely. Ms. Neal explained that sufficient space has been provided by decreasing the planting strip and she noted that the project otherwise remains unchanged.

Ms. Neal confirmed that the Town Engineer has verified that a car can make a turn in the public parking lot in four moves and would not need to back out on to Sir Francis Drake Blvd.

Ms. Neal discussed the reduced planting strip. She noted that a vibrant planting area would be difficult to maintain and that, should the Town extend Bank Street through to Sir Francis Drake Blvd in the future, there would be less than the required 4 feet for a sidewalk. Ms. Neal said that staff believes the planting strip could be increased by 2 feet by reducing the outdoor seating area, which is not the applicants' wishes.

Ms. Neal also noted that a parking variance is required to reduce the number of required spaces from 10 to 9, but that staff believes findings can be made and, overall, staff recommends approval of the project with the modifications to the property.

Planning Director Moore discussed the planting strip. He said that staff believes it would be possible to move the parking lot in a westerly direction to increase the planting strip, although it is not a major concern. Mr. Moore discussed the increase in driving aisle space and said that staff likes the project and design overall. Mr. Moore said that there are two small redwood trees that the applicants would like to remove which will be considered by the Tree Committee.

Ms. Neal said that the applicants will explain, using the plans, the reasons why they feel the parking lot cannot be moved westwards, which she said relates to the sidewalk approach and a doorway.

Commissioner Fragoso expressed her dissatisfaction with the reduced sidewalk.

Commissioner Newton and Mr. Moore discussed the sidewalk design in relation to the Town's wish, at some future date, to extend Bank Street through Sir Francis Drake Blvd. Mr. Moore noted that if the Town develops the right-of-way, some trees will need to be removed, which he discussed. He noted that the Town's aim is to accommodate cars and cyclists, and that it would be a challenge to accommodate pedestrians with a reduced sidewalk. Mr. Moore noted the sidewalk would be on the applicant's property.

Commissioner Newton and Mr. Moore discussed the possible future development of the intersection. Mr. Moore noted that there are no plans or final disposition on the matter, although a plan exists for the Parkade, albeit it is stale. Mr. Moore said there will be public meetings if the area is considered for development.

Commissioner Ackerman suggested adding a condition that the sidewalk on the applicants' property should always be available for public use. Mr. Moore and Commissioner Ackerman discussed the line of travel for pedestrians.

Acting Chair Kehrlein suggested eliminating the parking lot wheel stops in order to extend the curb of the planting strip or sidewalk and gain additional space, which she discussed with Mr. Moore.

Brian Back, Applicant, briefly discussed his vision for their project. Sean Kenney, Project Architect, discussed the design update. He noted that they have moved the trash enclosures and increased the turning radius in the parking lot. He agreed that they could widen the planter strip by relocating the entry doors, but he said the applicants like the present entry location because it is on a sidewalk where people gather and it is in the center of their project. Mr. Kennedy said that the pedestrian pathway constrains their ability to move the parking to the west, and that it might eliminate the pedestrian connection and would not provide good accessibility.

Mr. Kennedy said that a 2 feet wide planting area is fairly generous according to their landscape designer. He noted that it is on private property and explained what they are trying to achieve. Mr. Kennedy said they want to bring people to the site from a public thoroughfare and the best pathway is close to the building and not on Sir Francis Drake Blvd.

Commissioner Newton, Mr. Kennedy and staff discussed the development of the northern end of the sidewalk. Mr. Moore explained that the Town Engineer requested the corner be developed as part of the application in preparation for any future development of Bank Street. This prompted discussion amongst the commissioners and staff.

Commissioner Ackerman and Mr. Moore discussed an area east of the parking lot that is asphalted. Mr. Moore noted that there are no plans for this piece of land as part of the application.

In response to Commissioner Newton, Mr. Moore said that the Applicant is not proposing to landscape the Town's easement.

Commissioner Fragoso suggested a condition of approval that related to staff using the parking lot.

Mr. Moore and Commissioner Ackerman discussed the need for a revocable encroachment permit to ensure the sidewalk through the applicant's property remains accessible to the public. Commissioner Ackerman explained why he believes a condition of approval would suffice, which did not meet with the agreement of Commissioners Newton and Fragoso.

In response to Acting Chair Kehrlein, Ms. Neal confirmed that part of the monument sign would be in the public right-of-way and so it would be included in the requested encroachment permit. Acting Chair Kehrlein discussed the wall on Sir Francis Drake Blvd. with Mr. Kennedy, which she said would be uninviting and too bulky.

Acting Chair Kehrlein discussed the proposed fence with staff, who confirmed that there will be a gradation in height, with the highest portion being 6 feet.

Acting Chair Kehrlein opened the public comment period.

Ann Mannis, 4 Azalea, said she supports the project. She said that there has been an old, decaying gas station that has been an eyesore and now there is an opportunity to turn it into something viable.

She said the project is pedestrian and bike friendly, that the applicants have been accommodating and the project should not be held up any longer.

Acting Chair Kehrlein closed the public comment period.

Commissioner Ackerman discussed an additional wording to the resolution regarding the walkway through the property, to which there was general agreement.

In response to public comment, Commissioner Fragoso noted that the project had been continued due to safety issues regarding the parking lot and the ability of cars to exit safely. Mr. Moore said that the town has parking requirements prescribed by code that must be met unless an exception to the code can be made.

Mr. Moore discussed the revocable encroachment permit with Commissioner Newton.

Commissioner Ackerman discussed proposed minor amendments to the Conditions of Approval, including Amplified Instruments, instead of amplified keyboards.

Commissioner Ackerman said that it was a proud moment when the Town could use the General Plan to support residents who strongly opposed the proposed Chevron Station in this location. Commissioner Ackerman said that he is happy with the series of events that have resulted in a better project, which he said he supports.

Commissioner Newton suggested the traffic engineer is asked to consider whether a "No crossing" sign would be appropriate on part of the sidewalk, which she identified. Commissioner Newton requested that the remediation considerations she raised at the last meeting could be included when plans are drafted for landscaping the easement area.

M/s, Ackerman/Newton, Motion to adopt Resolution # 15-20, 2001, Application # 15-18 for the request for a Use Permit for outdoor seating, Design Review of proposed exterior changes and site improvements, and a Parking Variance to have 1 less than the required number of parking spaces and less than the required dedicated delivery vehicle loading space at 2001 Sir Francis Drake Boulevard with the following amendments to the Resolution and Conditions of Approval:

"Amplified keyboard" changed to "Amplified instrument";

"This approval is limited to the development illustrated on the plans.....pages A0.01, A0.02, A1.00, A100.1..." amended to read: "This approval is limited to the development illustrated on the plans.....pages A0.01, A0.02, A1.00, A100.1 revised 7/9/15..."

AYES: Ackerman, Fragoso, Kehrlein, Newon  
ABSENT: Gonzalez-Parber, Green, Hamilton.

Commissioner Kehrlein read the appeal rights and announced a 5-minute break at 8:20 p.m.

7. **Solar Energy Permitting Ordinance** - An Ordinance of the Town of Fairfax Adding Article 11 to Chapter 17.138 of the Town Municipal Code (“Solar and Renewable Energy Systems”) to Provide a Permitting Process for Solar Energy Systems.”

Planning Director Moore made a brief presentation. He said that the Town is required by law to adopt the Solar Energy Permitting Ordinance by the end of September, which he discussed. Mr. Moore noted that the ordinance drafted by Counsel. He said that the intent of the ordinance is to streamline the process in order for applicants to receive over-the-counter building permits if they meet the required standards, which he discussed.

Commissioner Ackerman said that he supports the ordinance as written and agrees with the exclusion of battery storage type-systems for reasons he explained.

Commissioner Newton discussed her concerns that wildlife safety is not addressed by the ordinance, and she asked whether there are limits on the size and scope of solar system projects which would be affected by the ordinance. Mr. Moore noted that the language is prescribed by the State and that he will seek Counsel’s advice. However, he said that staff recommends moving the ordinance forward and for Ms. Newton’s concerns to be addressed at the Town Council meeting.

Commissioner Ackerman said he believed there are larger projects that are not included in the streamline process, and that the ordinance refers only to roof top solar systems and net metering customers, as opposed to large solar projects

Commissioner Newton said that the scope of the ordinance is broad and that she would recommend removal of the language pertaining to public health and safety. In response, Mr. Moore noted that State Law specifically prescribes the language to be used.

Commissioner Newton discussed her concern that the review process has not been made part of the resolution. She discussed the reasons she believed it should be included. Mr. Moore said he would address her concerns to the Town Council.

M/s, Newton/Ackerman, Motion to approve Resolution No. 15-24, recommending the Town Council adopt Article 11 to Chapter 17.138 of the Town Municipal Code to Provide a Permitting Process for Solar Energy Systems with amendments that will be amended by staff.

AYES: Ackerman, Fragoso, Kehrlein, Newon  
ABSENT: Gonzalez-Parber, Green, Hamilton.

**MINUTES**

8. Minutes from the June 18, 2015 meeting.

The minutes of the meeting of June 18, 2015 were continued due to a lack of a quorum of commissioners who attended the meeting. Commissioner Newton recommended an amendment regarding signage for the project at 2001 Sir Francis Drake Blvd.

## **DISCUSSION ITEMS**

There are no discussion items scheduled for this meeting.

## **PLANNING DIRECTOR'S REPORT**

Planning Director Moore said that he hoped a forum to discuss the General Plan and Housing Element with regard to converting Highway Commercial to Central Commercial can be scheduled for the end of August. Mr. Moore has also targeted the last week of September for a traffic forum, which he discussed.

Mr. Moore said that a joint Town Council and Planning Commission workshop should be scheduled for spring or early summer in 2016 to discuss the Town Center plan, which he discussed.

## **COMMISSIONER COMMENTS AND REQUESTS**

Commissioner Ackerman reported on a Climate Action Committee meeting where Rachel Guinness had made a presentation on Junior Second Units.

Planning Director Moore noted that he has scheduled an appointment with Ms. Guinness and that she had been successful in gaining a relaxation of fees by the water and sewer districts in Novato for junior second units.

Commissioner Fragoso presented materials relating to accessory structures.

## **ADJOURNMENT**

A motion was made, seconded, and unanimously approved to adjourn the meeting at 8:55 p.m.

Respectfully submitted,

Joanne O'Hehir