

**DRAFT** Town of Fairfax Planning Commission Minutes  
Fairfax Women's Club  
Thursday, September 17, 2015

**Call to Order/Roll Call**

Chair Green called the meeting to order at 7:05 p.m.

**COMMISSIONERS PRESENT:** Bruce Ackerman  
Esther Gonzalez-Parber  
Philip Green (Chair)  
Norma Fragoso  
Laura Kehrlein  
Mimi Newton

**COMMISSIONERS ABSENT:** Shelley Hamilton (Vice-Chair)

**STAFF PRESENT:** Jim Moore, Planning Director

**APPROVAL OF AGENDA**

M/s, Kehrlein/Gonzalez-Parber, Motion to approve the agenda:

**AYES:** Ackerman, Gonzalez-Parber, Green, Fragoso, Kehrlein, Newton  
**ABSENT:** Hamilton

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Carlo Gardin, 53 Manor, discussed a letter in the Marin Independent Journal about problems with on-street parking. He asked the town to consider how the problems can be resolved.

**PRESENTATION BY RACHEL GINIS, EXECUTIVE DIRECTOR OF LILLYPAD HOMES, ON JUNIOR SECOND UNITS**

Rachel Ginis discussed the affordability of Junior Second Units (JSU) and said that her non-profit organization helps people find and rent JSUs. Ms. Ginis noted that a spare bedroom of up to 500 square feet with a door to the main living area could be repurposed as a JSU. She discussed the concept of JSUs and presented a floor plan of a 230 square foot JSU. Ms. Ginis discussed Lillypad's website, which she explained could be used as a resource.

Ms. Ginis discussed impediments to JSUs, including permit costs, parking and sprinkler requirements. She also discussed their advantages, which include low environmental impact and maintaining the character of a neighborhood. Ms. Ginis provided an overview of Novato's definition of a JSU and noted that they have removed parking and sprinkler system requirements while the water and sewer districts have reduced or eliminated their fees.

Ms. Ginis said that JSUs have been legalized in Novato and Tiburon and are included in most of the Housing Elements in Marin towns. She noted that over half the homes in Marin are occupied by one or two people, leaving the majority of bedrooms underutilized. Ms. Ginis discussed further benefits, including additional rental income and more affordable housing options.

In response to Chair Green, Ms. Ginis discussed Lilipad's facilitation of JSUs, which include educating business and community leaders. Planning Director Moore noted that Ms. Ginis has persuaded Novato to adopt an ordinance and withdraw their sewer fees. He said that Ms. Ginis and her organization are encouraging the State to better utilize current housing stock, which he discussed.

In response to Commissioner Newton, Ms. Ginis discussed how utility bills could be split between the homeowner and the renter.

In response to Commissioner Fragoso, Ms. Ginis said that additional parking is often not required because the bedroom space already exists with the assumption that parking is already provided. Mr. Moore noted that Fairfax would be drafting an ordinance for JSUs in November.

In response to Chair Green, Mr. Moore noted there are indications that JSUs should count towards RHNA in the future.

## CONSENT ITEMS

1. **12 Crescent Circle; Application # 15-24:** Request for a Use Permit for a 708 square foot, second story, master bedroom/bath addition over the garage of an existing single-family residence; Residential Single-family RS 7.5 Zone; Assessor's Parcel No 001-251-18; Tom Borromeo and Minette Norman, applicants/owners; CEQA categorically exempt, § 15301(e)(1).

Commissioner Newton suggested a minor amendment to the resolution relating to the setbacks and agreed to a further amendment relating to the combined setbacks upon a request by Commissioner Fragoso.

Chair Green asked if there were members of the public who wished to speak about the project. Mr. Borromeo, Applicant, said he was available to answer any questions and Chair Green invited a motion to approve the consent when no one from the public came forward to speak.

M/s, Fragoso/Gonzalez-Parber, Motion to approve Consent:

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

Chair Green read the appeal rights.

## PUBLIC HEARING ITEMS

2. **53 Belmont Avenue; Application # 15-26:** Continued consideration of a request for Design Review to demolish 2 existing units to construct a new 2,150 square foot, 3 bedroom, 2 bath, single-family residence and a 231 square foot carport on a property currently developed with 3, legal non-conforming units; Residential RD 5.5-7 Zone District; Assessor's Parcel No. 002-215-13; Andrew Sikorski, Applicant; William and Sandra Edinger, owners; CEQA categorically exempt, § 15303(a) and 15303(e).

Planning Director Moore presented the staff report. Mr. Moore noted that the application has been continued from the last meeting in order for the applicant to provide landscaping and irrigation plans, and proposed buffering between the two properties. Mr. Moore reminded the commissioners that the applicant had also been requested to consider relocating the carport and redesigning its roof and changing the dwelling's windows.

Mr. Moore said that the applicant has chosen not to relocate the carport for reasons he explained. Mr. Moore said that the applicant could discuss the reasons the window design remains unchanged and he discussed the proposed landscaping and fencing.

Andrew Sikorski, Project Designer, said they have redesigned the carport roof so that it blends well with the existing dwelling. He discussed the reasons they have not changed the window design, which includes the additional cost. Mr. Sikorski said they have not added irrigation because there seems to be sufficient ground water.

Chair Green said he supports the project with the change to the carport roof design.

Commissioner Frago commented on a trailer and boat in the driveway, which Mr. Edinger, Applicant, said will be removed when a tenant leaves.

In response to Commissioner Frago, Mr. Sikorski confirmed the bedroom windows meet the egress requirements and they discussed the roof pitch of the carport.

In response to Commissioner Gonzalez-Parber, Mr. Sikorski noted that the windows on the east side of the proposed dwelling, which faces a San Anselmo dwelling, will provide privacy and he said that the windows are part of the pre-fabricated house design. Mr. Sikorski said the windows could be customized, which he did not believe would be too financially impactful.

Commissioner Gonzalez-Parber discussed her concern that the new planting might not survive in drought conditions without an irrigation system. Mr. Edinger said that landscaping grows rapidly because there is a lot of ground water and he confirmed they would be using drought-tolerant plants. Commissioner Gonzalez-Parber confirmed her desire that an irrigation system is installed.

In response to Commissioner Frago, Mr. Moore said the Town Engineer could review the drainage plans at the building permit stage. There was general agreement among the commissioners that the requirement could be added as a condition of approval. Staff were asked to revise the numbering in the resolution.

Chair Green suggested minor amendments to the resolution, to which there was general agreement. Chair Green and Mr. Moore discussed changes to the location of the windows. Mr. Sikorski commented on their placement and Mr. Moore noted that higher windows have been encouraged in the past when two houses are situated close together.

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

Commissioner Gonzalez-Parber suggested adding irrigation as a condition of approval. In response, Mr. Moore said that drought-tolerant species are encouraged and he noted that the plans will be routed to the municipal water agency, who have their own requirements. He suggested the commissioners consider, as a condition of approval, the planting of drought-tolerant species or an irrigation system.

Commissioner Fragoso and Mr. Moore discussed the Water District's new water-saving requirements.

Commissioner Kehrlein noted that the resolution requires that landscaping complies with MMWD's requirements. She said that she appreciates the redesign of the carport roof.

M/s, Kehrlein/Fragoso, Motion to approve Application # 15-26, a request for Design Review to demolish 2 existing units and construct a new 2,150 square foot, 3 bedroom, 2 bath, single-family residence and a 231 square foot carport on a property currently developed with 3 legal non-conforming units at 53 Belmont Avenue, with the following amendments to the Resolution:

That the conditions are re-numbered correctly;

5(E) Shall be amended to read, "...The Town Engineer shall review the recommendations by the Project Engineer";

5(A) The word "shall" will be added above the word "may".

AYES: Ackerman, Gonzalez-Parber, Green, Fragoso, Kehrlein, Newton

ABSENT: Hamilton

Chair Green announced the appeal rights.

- 3. 59 Manor Road; Applicant # 15-28:** Request for a Use Permit and Design Review of a 2,288 square foot, three bedroom, two and ½ bath single-family residence with attached two car garage and a 198 square foot detached studio with a ½ bath, living area and a closet; Residential RD 5.5-7 Zone; Assessor's Parcel No.001-131-39; Truett Roberts and Carroll Swenson Roberts, applicants/owners; CEQA categorically exempt, § 15303(a)

Planning Director Moore presented an overview of the staff report. He explained that Principal Planner Neal, who is absent, reviewed the project and wrote the report. Mr. Moore said that the lot is vacant and lies at a relatively low level. He noted that the owners are requesting a 3-bedroom, 2½-bathroom dwelling with a one-car garage and detached studio and half-bathroom in the rear

yard. Mr. Moore explained that the code does not require story poles for the single level accessory structure. He noted that the proposed project conforms to the residential zoning district's regulations, but that a Use Permit is necessary because the lot does not meet the frontage width requirement of 60 feet, although it does meet the 5,500 square feet minimum requirement for lots.

Mr. Moore said that a staff survey indicated a difference in the size of dwellings and parcels in the neighborhood, and he noted that there are other two-story houses in the vicinity that exceed the 22.5 feet proposed height of the new dwelling. He said that a previous Planning Commission had allowed the dwelling at 76 Manor Road to exceed the Town's height limit by 3 feet in order to allow them to convert basement space.

Mr. Moore noted that the proposed dwelling complies with the minimum and combined setbacks, FAR and lot coverage ratio, in addition to the Town's parking requirement of one covered space and two driveway spaces. He also noted that the proposed studio and half-bathroom are similar to other proposals approved by the Planning Commission and he discussed a Deed Restriction that is recommended for inclusion in the conditions of approval.

Mr. Moore discussed design review, when he noted that there is no one type of architecture in the neighborhood. He discussed the massing in comparison to other dwellings, articulation of the proposed structure and landscaping plan, which includes drought-tolerant plants. Mr. Moore noted there would be screening to provide privacy and permeable hardscape, and he discussed the conditions of approval that relate to outside agency requirements.

In response to Commissioner Fragoso, Mr. Moore said she should discuss a concrete drainage ditch with the applicant. He noted that there is a bioretention basin on the property.

In response to Commissioner Ackerman, Mr. Moore confirmed that the height of the story poles is accurate.

Chair Green noted a minor correction to the resolution.

In response to Commissioner Kehrlein, Mr. Moore said the property is in a non-WUI zone.

Chair Green announced a 2-minute break at the request of Commissioner Fragoso.

Truett Roberts, owner and designer, discussed the drainage ditch, which he noted exists on the property. He said they have tried to minimize the size of the dwelling. Mr. Truett discussed the materials and articulation to break up the massing so the house does not appear to be too large for the lot. He noted that the second floor windows will be set higher than usual to protect the neighbors' privacy and that the roof height will be lower than the maximum allowed with a sloping pitched roof.

Mr. Truett discussed the studio, including window placement and landscaping, which he said includes new trees for screening. He said that they intend to install a gray water system.

In response to Commissioner Newton, Shelby LaMotte, Landscape Architect, discussed the bioswale and culvert on the property. She also discussed the irrigation system for the lawn and existing vegetation.

Ms. LaMotte noted that the lot is very small and they have worked hard to reduce the footprint and create landscaping to reduce the impact on neighbors.

In response to Commissioner Fragoso, Mr. Truett discussed the studio roof.

In response to Commissioner Kehrlein, Mr. Truett said they intend using the studio structure as a workspace.

In response to Commissioner Gonzalez-Parber, Ms. LaMotte said there would be exterior safety lighting, which she discussed, but no landscaping lighting.

In response to Chair Green, Mr. Truett discussed the second story windows. He said their main purpose is to provide light.

In response to Commissioner Gonzalez-Parber, Ms. LaMotte said that she was unable to contact the neighbors at 1 Rockridge and she noted that the adjacent neighbors are present. She discussed the concerns of a neighbor on Murial regarding the studio. Ms. LaMotte noted that there has not been a new house in the neighborhood for many years but that the lot is being thoughtfully developed.

In response to Commissioner Kehrlein, Ms. LaMotte noted that the Fire Department does not favor a hedge at the corner of the studio, which they said constitutes a fire risk. They discussed the location of the studio in relation to the dwelling on Murial.

Chair Green said that it is a great design that fits on the lot well and should be fairly unobtrusive.

In response to Commissioner Ackerman, Mr. Truett said that they will have usable garden space by locating the studio towards the back. Ms. LaMotte noted that the studio will meet the setbacks.

Chair Green opened the public comment period.

Carlo Gardin, 53 Manor, said the new dwelling will obliterate their view of Mt. Tamalpais and so they are opposed to the project.

Chris Vaccaro, 57 Manor, said the new dwelling will block their view of Mt. Tamalpais and Scenic. He said that he likes the design but the height does not fit the character of the neighborhood.

Cynthia Smith, 63 Manor, said the new dwelling is too tall and will block the view of the hills from their deck and bedroom windows.

Commissioner Ackerman said he appreciates the design and work that has gone into fitting the dwelling on the narrow lot. He said it is unfortunate that the neighbors are impacted but that the

applicant has a right to build on the lot and that change is difficult when one is used to something else. He concurs with the staff report and said that, although he thought the story poles looked too tall, it seems they have been measured correctly. Commissioner Ackerman said the proposal meets the Town's requirements and is below the height limitations. He commented on the roof design.

Commissioner Newton said she had a similar reaction to the height being potentially out-of-character with the neighborhood. She said she has a preference for an older, cottage look, but that it is problematic if that feeling is preserved without accepting the variety of dwelling designs that lend character to a neighborhood. Commissioner Newton said we should not hold on to the past and that new homes are allowed to be built. She noted that the old, single story structures are not uniform in the neighborhood. Commissioner Newton said that effort has been put into the design to make the dwelling less intrusive than it could otherwise be.

Commissioner Gonzalez-Parber said that she favors the project but is concerned that there has not been a dialogue with the neighbors. She said she believes that there might be a way of compromising, although she acknowledged it might not be possible. However, Commissioner Gonzalez-Parber said she believes the applicant and neighbors should try to come to an understanding, noting that the owner has a right to develop their property. She said she would favor a continuance.

Commissioner Fragoso and Mr. Moore discussed the creek, which Mr. Moore noted is seasonal, and he suggested that the Town Engineer reviews the building permit plans. Commissioner Fragoso said the design is attractive, and she confirmed she walked around the neighborhood. Commissioner Fragoso discussed the trees and shrubbery, which she said appear to be as tall as the story poles, and she said the new house should not be as obtrusive as other dwellings. She commented on the height being well below the maximum and noted that the setbacks have been met. Commissioner Fragoso said the project has been sensitively sited and designed.

Commissioner Ackerman commented on what should be visible of the dwelling from the second floor of 12 Muriel.

Chair Green discussed a slight amendment to the Deed Restriction regarding the accessory studio.

Commissioner Kehrlein discussed her concerns about the studio building. She noted that the applicants' intentions appear to be legitimate and there is a deed restriction in place. However, she believes the studio could lead to future problems (relating to the space being used as an illegal second unit) that were discussed at a previous hearing. Overall, Commissioner Kehrlein said she is satisfied with the proposed project and the applicant's explanation of his roof design. She said she would prefer a different material but that might cause an increase in height, and she said the wood siding should look softer than the rendering implies. She said the applicant has done a good job in satisfying the Town's requirements.

Commissioner Newton said she favors Commissioner Gonzalez-Parber's suggestion that the meeting is continued to allow the applicant to meet with their neighbors and return for a future hearing to discuss their feedback.

Mr. Moore said he usually supports a meeting between the applicant and neighbors to try to resolve design issues, but he noted that the site is constrained and the height restrictions, setbacks and FAR have been met. Mr. Moore noted that the massing is allowed to fit within the setbacks and that the lot comes with entitlements. He noted that it is unfortunate the applicant was not able to meet with all the neighbors, although he noted that the commissioners could continue the project to a future hearing.

Chair Green said he does not favor a continuance.

M/s, Fragoso/Ackerman, Motion to approve Application # 15-28, a request for a Use Permit and Design Review of a 2,288 square foot, three bedroom, two and a half bath single-family residence with attached two car garage and a 198 square foot detached studio with a half-bath, living area and a closet at 59 Manor Road, with the language changes to paragraph 15 on page 5 of the conditions of approval; that the paragraph numbers be amended and the Town Engineer shall review the drainage plans:

AYES: Kehrlein, Newton, Ackerman, Green, Fragoso  
NOES: Gonzalez-Parber  
ABSENT: Hamilton

Chair Green read the appeal rights.

## **TREE COMMITTEE**

### **4. Appointment of Alternate Tree Committee Member**

In response to Chair Green, Planning Director Moore discussed the duties of a Tree Committee Member. Commissioner Kehrlein discussed the Tree Committee meetings, which she noted take place on the fourth Monday of the month.

Discussion on rotating the position took place. Ms. Neal arrived and she discussed the reasons why rotating the position is difficult for administrative purposes. Commissioner Newton volunteered to be the alternate Tree Committee Member.

## **MINUTES**

### **5. Minutes from the August 20, 2015 meeting.**

M/s, Fragoso/Newton, Motion to approve the minutes from August 20, 2015, with the following corrections:

Page 7: "Mr. Moore noted that the property is situated in a non-WUI area and the sprinkler system requirements are relaxed for the detached building. However, he noted a sprinkler system would be required if the applicants were applying for a second unit but that the parking requirements could be relaxed.....", amended to read:

“Mr. Moore noted that the property is situated in a non-WUI less than 30% slope area and that, ironically, sprinkler system requirements are relaxed for detached second units”, and redact the second sentence.

Page 8: “...Mr. Moore noted that the town has not yet codified junior second units”, amended to read: “...Mr. Moore noted that junior second units are intended to be part of a main structure and the Town has not yet codified junior second units”.

Page 10: “Mr. Moore commented on the lack of parking in the neighborhood”, amended to read, “Mr. Moore commented on the apparent lack of parking in the neighborhood”.

Page 6: “Vice-Chair Kehrlein suggested an alternative location”, amended to read, “Vice-Chair Kehrlein suggested an alternative location and expressed concern for the shed roof design for the carport”.

“Rachel Guinness” amended to read “Rachel Ginis”.

Page 2: “Ms. Neal discussed the removal of the owner of 71 Spruce Avenue.....”, amended to read “Ms. Neal discussed the removal of the name of the owner of 71 Spruce Avenue ....”

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

## **PLANNING DIRECTOR’S REPORT**

Planning Director Moore discussed an upcoming workshop on October 22, 2015 regarding the Wall property. He said that the intent of the workshop is to allow the community to listen to the applicant, Marshal Rothman’s plans for the property, and for staff to educate the public on the entitlement process. Mr. Moore noted that the General Plan Housing Element forum will be heard a week later.

Mr. Moore said that the items for the November 19<sup>th</sup> meeting are not yet known but that they hope to invite the non-profit developers, who have entered into an agreement with the Lutheran Church, to discuss their plans. Mr. Moore suggested an alternative date if the agenda is too full. Mr. Moore discussed the buildings on the Lutheran Church site, which he said are not seismically up-to-date, and he said they are all slated for removal.

Mr. Moore discussed a proposed application for the site at 31 Broadway. He said the application is for a tailored operation for weight lifting and that, as Planning Director, he has some discretion regarding interpretation of allowable uses. Mr. Moore noted that the approved plans stipulate “personal services” and he asked the commissioners whether or not they would consider the proposed use constitutes a personal service. Otherwise, he noted that the operation would need a Conditional Use Permit from the Planning Commission.

Mr. Moore said that Commissioner Kehrlein could not participate in the discussion because she has a professional association with the prospective business.

Commissioner Newton discussed her interpretation of a personal service, which would be a service provided to one person by another.

Chair Green discussed the provision of personal services relating to LLPs. He said he does not classify a weight lifting service as a personal service.

Commissioner Ackerman thought that a distinction could be made between the size of the space and number of clients.

Staff noted that there are 66 allowable uses for the site and a weight-lifting service is not included.

Commissioner Newton said that she does not believe sufficient information has been provided for the commissioners to make a decision. She said that they need to understand what constitutes a personal service.

Mr. Moore said that he would consider the commissioners' comments.

Mr. Moore reported on the last Town Council meeting at which the Solar Ordinance had its last hearing. He noted the ordinance was passed with amendments reflecting that it concerns systems of 10 kW or less.

Commissioner Newton discussed her research on solar law in relation to health and safety. She said that the Town should codify other parts of state law into the Town's ordinances. Commissioner Ackerman said that, if the Town pursues changes to its ordinance concerning systems over 10kW, he would suggest input from a body that has more current knowledge on the subject, such as Marin Clean Energy. Vice-Chair Kehrlein discussed the reasons she would be in favor of updating the solar ordinance for systems over 10kW.

Mr. Moore suggested that basement units are added to the list of discussion items for ordinance changes. He noted that there are properties with basement units that are legal, non-conforming, which new buyers are converting as part of their main residence. He discussed the reasons these are causing problems that relate to FAR.

Chair Green commented on second units in relation to RHNA.

## **COMMISSIONER COMMENTS AND REQUESTS**

In response to Chair Green, staff confirmed that an illegal tree service business continues to operate from the property at 10 Olema. Ms. Neal said that the business owner has ignored the Town, and the resident who originally complained about the operation has ceased to complain.

In response to Chair Green, who asked if the historical house on the 10 Olema Property could be registered as a historical landmark, Mr. Moore discussed the property in connection with the General Plan Update. He commented on how other cities interpret the law on historical buildings.

**ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Joanne O’Hehir