

LARKSPUR PLANNING COMMISSION
MEETING MINUTES OF JUNE 9, 2015

The Larkspur Planning Commission was convened at 7:00 p.m. in the City Council Chambers by Chair Ziesing.

Commissioners Present: Chair Todd Ziesing, Monte Deignan,
Mark Sandoval, Laura Tauber

Commissioners Absent: Daniel Kunstler

Staff Present: Planning Director Neal Toft
Planning Consultant Lorraine Weiss

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- At the June 3rd meeting the City Council directed the City Manager to temporarily suspend the process for the Larkspur Library/Community Center Facility. The Council plans to hold a series of Town Hall Meetings possibly starting in August. There is a link on the City Website that provides information and Staff will be conducting a lot of outreach ahead of the meetings.
- Staff received plans for interior remodeling and some minor exterior changes at the Larkspur Creek Inn. These changes will go through a Zoning Administrator/Heritage review. This project has reportedly experienced delays due to complications with utilities, Health Department, and tenant/property owner issues. Staff is eager to get this project moving along now that they have received a workable package.

PUBLIC HEARING ITEMS

- 1. PD-Prec (Amend) 15-16: Rose Garden Residential Development (APN 022-741-01 thru 022-741-43); Brian Olin/ New Home company applicant; Larkspur Landing 8 Owner, LLC, property owner. Request to amend the Precise Development Plan application No. 08-45 approval and Ordinance No. 972 to reduce the required 50-foot building and impervious setback requirement for lot 27 (55 Rose Lane) of the Rose Garden Residential Development (APN 022-741-01 thru 022-741-43). The applicants are requesting a minimum setback of 48.8 feet for the main building with a 45-foot setback for a 13.5-foot wide portion of the building footprint from the top-of-bank of the east-west reach of Larkspur Creek. Note: Amendment to Ordinance No. 972 will require review and adoption of the City Council, which is schedule for June 17, 2015**

Planning Consultant Weiss presented a staff report. She noted staff received two pieces of late mail. Planning Director Toft stated the Commission's review is advisory and the ordinance amending the Precise Plan is scheduled for the June 17, 2015 Council meeting.

Commissioner Tauber stated she was concerned about precedence and impacts and the fact that the neighbors will not get the same benefit. She asked if it would be possible to add language in the ordinance that says this action would not set a precedent for other properties. She would also like to add language that would require them to revert back to the original setback in the event of reconstruction or major renovation. In regard to precedent, Planning Director Toft stated the

Development Standards would be an awkward place for this type of language since it is more policy oriented. This language could be included in the preamble to the ordinance.

Commissioner Sandoval noted some of the properties have copper ornamental features and he asked if the subject property has these amenities. Planning Consultant Weiss stated she was not sure- the applicant was available for answering the question..

Chair Ziesing opened the Public Hearing.

Mr. Brian Olin, representing the New Home Company, made the following comments:

- Bringing this new neighborhood to life has been a long process.
- He thanked the community for being patient.
- The error was discovered on this lot and they immediately worked with staff to come up with a resolution.
- He distributed a document titled Exhibit 1 which shows the original staking layout of the location of the home with the “as built” location showing the 5’ shift back on the property.
- There is no discernable visual impact and the home is not “sticking out in any direction”.
- He asked for the Commission’s approval to remedy this error that was made during construction.

Ms. Sandy Goldman, representing Friends of Corte Madera Creek, made the following comments:

- She recently moved into a condo on Rose Lane.
- The Friends advocated for a larger creek setback than the City ultimately specified.
- This is a trivial adjustment. The setback is so small in terms of biological resources. The real issue is the amount of pervious surface.
- She is asking that the City preserve the requirement for the certain amount of pervious surface.

Ms. Patricia Shepard, Rose Lane, made the following comments:

- The downspouts are attached to non-perforated pipes that connect to the drainage system.
- Some of these lots have had surface water issues.
- She asked if the drainage (surface water) on the site runs off to the north and not the creek area.
- She asked if this action would be a precedent for other errors that might be found.
- She asked if the process could work the other way.

Planning Director Toft stated the drainage was a technical effort on this challenging, flat site. All the internal drainage goes towards the retention/filtration basin at the eastern portion of the site. Some of the condos drain to other filtration areas that go towards the creek. Another development error was realized on another property that required a lot line adjustment- no other major “mulligans” have been found. Anyone, including the HOA, can propose an amendment to the Precise Plan. Any such proposal would be reviewed in consideration of the General Plan, CLASP, etc.

Ms. Glenna Lexinger, Rose Lane, made the following comments:

- She lives right across the street from the subject property.
- The environmental impact is minimal.
- The result of the “error” is a smaller back yard.
- She supports the amendment.
- She looks forward to the construction of the new Library/Community Center.

Mr. James Holmes, Larkspur, made the following comments:

- He does not disagree with anything contained in the staff report including the recommendations.
- There are three issues: 1) How to deter the “oops” defense; 2) How to make sure the requirements are taken seriously and accountability is maintained; 3) The undesirability of special legislation.

- He discussed a recent Supreme Court decision regarding a “good faith” defense in connection with patent infringement.
- There has to be a balance- nobody wants to be punitive. Accountability needs to be maintained.
- He wondered if some sort of sanction should be imposed- possibly elimination of the five-foot “nook”?
- He noted the staff report points out that the mistake might not have resulted in an advantage to the property owner. This is an important distinction.
- The ordinance should clearly illustrate the basis for the determination as stated in the staff report.

Chair Ziesing asked Mr. Olin if the lot was sold at a value in parity with the neighboring or if special consideration was given because of the problems. Mr. Olin stated the home was sold consistent with the pattern of other homes. The issue was discovered after the completion of the contract. Chair Ziesing asked if the new owner received any consideration. Mr. Olin stated “no”.

Commissioner Sandoval stated he did not have any floor plans and he asked what rooms were affected. Mr. Olin stated the 1.2’ encroachment is across the entire back of the home. The 13.5’ width is on the 5’ nook section that projects back. Planning Director Toft stated the rear wall consists of a living room and kitchen with a nook on the first level. There are second story bedrooms across the back of the house.

Commissioner Deignan asked Mr. Olin about the plans for the backyard area in terms of landscaping, drainage, etc. Mr. Olin stated they provide rear yard drainage but not landscaping. The pipes that can be seen in the backyard are the sealed pipes that come up to area drains that are then piped out to the street. Commissioner Deignan asked if development of the back yard was the owner’s decision. Mr. Olin stated “yes”. Planning Director Toft stated staff recently processed some plans for garden type pervious features. Commissioner Deignan asked if the fence line in the back yard and the lot coverage has remained the same. Mr. Olin stated “yes”.

Planning Director Toft stated Mr. Holmes made a good point in terms of the lack of benefit to the property owner, the anomalous condition, and that this is not intended to be a precedent. This language should be added to the ordinance.

Chair Ziesing closed the Public Hearing.

Commissioner Tauber provided the following comments:

- Her biggest concern was setting a precedent and how this would be perceived in the bigger scheme of things.
- She would like to see the appropriate language included in the ordinance.
- She would love to see compliance with the original setback if any major construction were to occur. Planning Director Toft stated he would discuss this with the City Attorney.
- She discussed the possibility of a fine or some other type of penalty should errors happen again.

Commissioner Deignan provided the following comments:

- He agreed with the comments in the staff report.
- He noted there was no advantage to the property owner.
- All applications should be reviewed on a case-by-case basis.
- He would be in favor of the concept that major remodeling should include bringing the building into compliance. Commissioner Sandoval agreed.
- The WRA report indicates the Willow trees along the bank were in poor shape and he asked if additional plantings should be required. Planning Director Toft stated the Restoration Plan includes annual reporting on progress and milestones. Commissioner Deignan stated improving the bank could be some sort of “off-set” to the error.

- He supported the amendment to the Development Standards.

Commissioner Sandoval provided the following comments:

- He agreed with the other Commissioners.
- He thanked Mr. Holmes for his insightful comments.
- He is hesitant about language that would restrict building.
- He supports the ordinance.

Chair Ziesing provided the following comments:

- This was an unfortunate error.
- The error is not to the benefit of anyone.
- He would love to see some action taken, such as plantings, which would help ameliorate the situation.
- He is fine with a “one-time mulligan” but did not want it to be seen as creating a precedent.
- He supported the staff recommendation to approve the ordinance.
- He agreed with the suggestion make by Commissioner Tauber in the event of a complete teardown- but did not want to infringe on the design.

M/s, Deignan/Sandoval motioned and the Commission voted 4-1 (Kunstler absent) to recommend approval to the City Council of the amendments to the Precise Development Plan based on the findings and information provided in the staff report and the comments made by the Commission. This action should not be seen as a precedent. A total replacement would be required to meet the 50' setback.

BUSINESS ITEMS

1. Approve Findings of Denial for application DR/SUP/HT/FHE 14-60: 127 Pepper Avenue; Hillary Culhane, Applicant and Property Owner; Assessor's Parcel: 021-231-12; R-1 (First Residential) Zoning District.

Planning Director Toft presented a staff report.

M/s, Deignan/Sandoval motioned and the Commission voted 3-1-1 (Kunstler absent, Tauber abstained) to approve the Findings of Denial for application DR/SUP/HT/FHE 14-60, 127 Pepper Avenue.

Chair Ziesing stated there was a 10-day appeal period.

2. Commissioner Reports

There were no reports.

3. Approval of minutes of Planning Commission meeting on May 26, 2015

M/s, Sandoval/Deignan motioned and the Commission voted 3-1-1 (Kunstler absent, Tauber abstain) to approve the May 26, 2015 minutes as submitted.

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

Minutes adopted 3-0-2 on June 23, 2015 (Kunstler, Deignan Absent)

Neal Toft, Director of Planning & Building