

LARKSPUR PLANNING COMMISSION
MEETING MINUTES OF MARCH 8, 2016

The Larkspur Planning Commission was convened at 7:00 p.m. in the Central Marin Police Authority Community Room by Chair Tauber

Commissioners Present: Chair Laura Tauber, Monte Deignan, Mark Sandoval (left at 8:15 PM),
Todd Ziesing

Commissioners Absent: Daniel Kunstler

Staff Present: Planning Director Neal Toft
Senior Planner Kristin Teiche

OPEN TIME FOR PUBLIC EXPRESSION

Ms. Cindy Winters made the following comments:

- She wished to discuss the lack of bike parking at the Larks Creek Shops.
- She does not mean to be critical of Neal and Kristin – they are doing their job by the letter of the law.
- The zoning regulations have resulted in a bike parking debacle that is a safety problem.
- New development requires site plans to show all parking and circulation for cars and bikes, but that is not required for existing development.
- Equator Coffee will cater to the pelotons that swarm the City and the Ice Cream shop will attract families on bicycles on summer days.
- They will have no place to park bikes and no sane cyclists would park their bike in the out-of-the-way Redwood Grove, hidden behind trees.
- There will be lots of trip hazards.
- This is what happens when a foreign absentee owner is not clued into the Marin / Bay Area worldview.
- The City should amend the zoning law to require site plans for remodels and existing commercial structures.
- It would help to raise the bike parking requirement, now 5%, and make it more flexible depending on use.
- Twenty racks may not be adequate.

PLANNING DIRECTOR'S REPORT

Planning Director Toft provided the following report:

- The agenda tonight is rearranged to take care of some old business items ahead of the public hearing.
- The permit for the project at 31 Piedmont Road has been completed and the property owners granted occupancy. They paid approximately \$25,000 in extra fees and penalties.
- The amended restriction on construction noise on Sundays and holidays went into effect in the beginning of March.
- Council Member Hillmer will be presenting some design options for the Larkspur Library and Community Center project at the April 6 City Council meeting.
- He regrets to report some very sad news: Library Director Francs Gordon Archer passed away today, after a short battle with pancreatic cancer. She has been the long-time director of the

Library and a shining person in City Hall as well as a resident of the Heather Gardens Neighborhood. She will be missed greatly.

- The banner poles had been taken down. The City is considering some measures to assure better internal review for public projects, as well as advisory review by Planning Commission and Heritage Board.

BUSINESS ITEM

1. Adopt Findings of Approval for Application DR/SUP/V/FAR/EXC 15-22; 577 Magnolia Avenue (AP #020-252-06); Marty Zwick, applicant; Stan Pomichter and Stanley Grey, Property Owners; R-1 (First Residential) Zoning District

M/s, Ziesing/Sandoval motioned and the Commission voted 4-1-1 (Deignan abstain, Kunstler absent) to adopt the Findings for Approval for Application DR/SUP/V/FAR/EXC 15-22, 577 Magnolia Avenue.

2. Review and grant a Conditional Certificate of Compliance for a vacant underdeveloped parcel: COC 15-62; 0 Summit Drive; APN: 021-250-13; Anthony Marinelli, Applicant; Task Mortgage and Investment Group, Inc. Property Owner; Zoning District RMP (Residential Master Plan); General Plan Designation- Open Space

Senior Planner Teiche provided a brief report.

Planning Director Toft introduced City Attorney Kit Faubion. Ms. Faubion discussed the following:

- She acknowledged that the application before the Planning Commission was not a typical item as it was a ministerial permit as opposed to a discretionary permit.
- She explained the Subdivision Map Act regulations and how it directs a City to process and issue either a Certificate of Compliance or Conditional Certificate of Compliance.
- The granting a Conditional Certificate of Compliance must include conditions to provide the framework for the property owner to pursue legalizing the parcel. The Planning Commission does not have the discretion within this process to waive City regulations, or remove conditions that are necessary to achieve a legal parcel.
- In this case it has been determined that the original property owner subdivided the lot in 1958, at a time that the City required approval of tentative maps.
- The property owner now needs to submit a tentative map application and apply for other related discretionary permits as necessary to make approval findings, such as a general plan amendment, and must comply with development standards.

Commissioner Ziesing asked if the payment of property taxes has any bearing on the issue.

City Attorney Kit Faubion responded “no”.

Commissioner Deignan asked if this is an unusual situation. Is this a hardship on a property owner?

City Attorney Kit Faubion responded:

- It is not a completely unusual procedure - she has worked on many certificate of compliance issues over the years.
- The subdivision map regulations have been in effect for over a hundred years and processes for creating new lots have changed through time.

- For example, where one could create a lot by deed, the law could change to require a record of survey; the law eventually required recorded maps to create parcels; and deeds became secondary to that.
- In its wisdom, the State Legislature created a process to address parcels that are created illegally.
- There did not used to be any process to correct an illegal lot.
- It identifies a path to legalize a lot but does not guarantee development.

Planning Director Toft stated:

- There are many factors that go into the conditions depending upon when the lot was created and what rules were in place at a given point in time.
- Most certificates of compliance are processed administratively by staff. The Subdivision Map Act specifies that it is a ministerial process.
- The Municipal Code varies from the Map Act as it allows a property owner to request that the Planning Commission grant a conditional certificate of compliance.

Mr. Riley Hurd, council for the property owner addressed the Commission and provided the following comments:

- His client is an innocent person who inherited this parcel.
- He provided two maps for the Planning Commission's consideration.
- The law requires that the second the City knows that a violation has occurred it must issue a Conditional certificate of compliance.
- The property is shown on the City's zoning map and General Plan map.
- It seemed at the previous meeting, the Planning Commission wanted to create a path to legalize this parcel.
- He has reviewed the conditional certificate of compliance and finds that the conditions render this property undevelopable.
- The general plan and zoning are in conflict.
- This is a privately held parcel, the City made a mistake designating this parcel as public open space.
- The property owner has been paying property taxes on this land.
- The City has acknowledged and accepted its creation.
- The City needs to fix the mistake; it is not fair to make his client to change the General Plan.
- The government code requires vertical consistency between the zoning and General Plan designation.
- The Planning Commission should direct staff to prepare a General Plan amendment.
- Condition Number 2 should be removed as the discrepancy between the zoning and the General Plan designation is the City's error and the City should be responsible for amending the designation.
- Condition Number 3 – Again the City should correct the issue with the General Plan designation, and this condition should be removed.
- Condition Number 4 – He does not find that the Slope and Hillside Regulations apply to the required Parcel Map application, only to development of the parcel. Therefore, this should be removed.

The Commission then closed the public comment portion of the hearing and brought the discussion to the dais. Chair Tauber asked the City Attorney to respond to Mr. Hurds comments.

City Attorney Fabian provided the following responses:

- The payment of property taxes on a parcel that was not lawfully created does not make a difference in its status.
- She acknowledged that this process is unusual and can be confusing.
- She revisited the requirements of the government code and the subdivision map act regarding Conditional Certificates of Compliance.
- She explained that the conditions were drafted by staff and reviewed by her office. She finds that the conditions as amended by staff, and provided on the dais, were appropriate and should remain in the Conditional Certificate of Compliance.
- Even if the Commission were to remove some conditions, the applicants would still need to comply with these requirements to develop the parcel.

At the conclusion of this discussion Chair Tauber requested a motion on the matter.

M/s, Ziesing/Sandoval motioned and the Commission voted 3-1-1 (Deignan Abstain, Kunstler absent) to direct staff to issue and record a Conditional Certificate of Compliance for the vacant parcel, identified as 0 Summitt Drive (APN 021-250-13) per the staff report.

3. Commissioner Reports

There were no reports

4. Approval of minutes of Planning Commission meeting on February 9, 2016

M/s, Sandoval/Ziesing motioned and the Commission voted 4-1-1 (Deignan Abstained, Kunstler absent) to approve the February 9, 2016 minutes as submitted.

Commissioner Sandoval left the meeting.

PUBLIC HEARING ITEMS

- 1. DR/FAR/V #15-59; Eric Layton, Patriarch Architects, Applicant; Kristin Bennett, Owner; 8 Alexander Avenue, Larkspur; Assessor's Parcel: 021-181-186; R-1 (First Residential) Zoning District. The applicant is requesting approval of permits to allow substantial remodeling and new additions totaling 1,147 sq. ft. to an existing 1,370 sq. ft., single story, single family residence, including 1) Design Review; 2) Floor Area Ratio Exception to increase the floor area ratio (FAR) from 1,370 sq. ft. and a 0.23 FAR to 2,517 sq. ft. and a 0.42 FAR; 3) Variance to the side yard setback to permit new improvements with a 3-foot side setback where 5 feet is required; 4) Variance to required parking to allow the provision of two uncovered parking spaces where four are required (one covered) for the substantial renovation and remodeling of a single family structure.**

Senior Planner Teiche presented a staff report.

Commissioner Deignan had questions about the square footage of the basement.

Chair Tauber opened the Public Hearing.

Mr. Eric Layton, architect, made the following comments:

- He gave a background of the project.
- He wanted to present a reasonable application and one that is not objectionable to the neighborhood.

- It is a narrow lot with a long, narrow driveway.
- The first application had single-car parking.
- The garage is legal as it sits with a history of cars being parked in it.
- He discussed how to accommodate the side-yard setback and the addition of stairs.
- The front element was stepped in to give the front more articulation and break up the façade that faces the church.
- One of his concerns was how to make the upper floor element look as if it were a part of the original structure (massing, materials, window types, etc.). He referred to the massing and was concerned that pushing it too far from the street would make it feel like an add-on.
- He stated there was storage underneath and the plan was not to lift the building or shrink it down but rather excavate out to create more living space.
- Adding windows and converting it to enclosed living space triggers a variance.
- The windows would not have any impact to the neighbors and a fence would be added on the property line to screen the windows.
- He pointed to a window that would be added to the bathroom.
- The proposed windows could be frosted, shaded, or changed if needed.
- The proposal has four, not five bedrooms.
- The storage/mechanical space below is a bit of a stretch financially but has been included in the application. It will not be used as living space.
- The proposed parking arrangement makes sense. There is a park across the street that has parking that is rarely used.

Ms. Kristin Bennett, owner, made the following comments:

- She has three children. She bought the property last year and it is not quite big enough for the family.
- She wants the expansion to conform to the bungalow nature of the existing house.
- She wants to make sure her immediate neighbor is happy with the proposal.
- She wants to do something that is tasteful and modest.
- She loves the neighborhood.

Commissioner Deignan stated this bungalow was probably built in the 1930's or 1940's and he noted they were doing a fair amount of excavation. He asked Mr. Layton if he planned on putting in a new foundation and upgrading the studs for the first floor walls. Mr. Layton stated "yes"- they need to do a number of structural elements. He pointed to the areas where the foundation would be replaced, the roof would be torn off, and the floors replaced. The kitchen was recently rebuilt and all the windows were replaced. He stressed that this is not a teardown.

Chair Tauber closed the Public Hearing.

Commissioner Sandoval Ziesing the following comments:

- He walks by the property often since he lives nearby.
- His initial impression of the look and feel of the project is that it is terrific.
- He likes the fact that they are trying to optimize the use of the property.
- This is a challenging property- it is small.
- Building rules are in place to make sure that things are proportionally built.
- He agreed with staff- this feels overbuilt and too much is being added to a small lot.
- It stretches every piece of the lot- FAR, parking requirements, etc.
- Very few of these "stretching" variances have been granted in this neighborhood.
- He is supportive of balancing the needs of a growing family with a small lot.
- The road is busy and is shared with a park and church that are used a lot.
- He loves the design and the spirit of the project.

- He could not support the application at this time.

Commissioner Deignan provided the following comments:

- A strict interpretation of the parking regulations would result in a bigger driveway and a resulting change in the character of the neighborhood. He can make the findings for the parking variance.
- He agreed with staff. The proposed work has a value equal to 130% of the current replacement value- they are replacing a large part of the structure.
- He was not sure it was appropriate to grant a “grandfathered” variance for the sideyard setback given all the work that is taking place. There needs to be a hardship to grant a variance- wanting a bigger house is not a hardship.
- The proposal includes an extensive amount of work on a small lot and he could not make the findings for the FAR.
- This is an overbuilt project.
- The architecture looks nice and echoes the cottage style.
- The Commission likes to see that the adjacent property owner supports the proposal but a change in ownership could occur.
- He would like to see a reduction in the size of the project and something to address the mass on the second floor.
- Even though the basement area does not contribute to the “numbers” it represents an intensity of use.
- This is a good start but they need to go back to the drawing board.
- He could not make the findings to approve the project.

Chair Tauber provided the following comments:

- She agreed with the comments made by the other Commissioners.
- She liked the design and stated a lot of thought went into it.
- She walks by this house all the time and noted there was a lot of traffic on this street. The park and church are very active and parking can be problematic. She was concerned about the loss of the parking.
- They are trying to build too much house on too small a lot.
- They need to go back to the drawing board.

Commissioner Deignan asked about the timing with respect to the Permit Streamlining Act. Senior Planner Teiche stated staff was in the beginning of the 60-day review period.

Planning Director Toft asked if the project could be redesigned or amended within the scope of the project at hand or if it would take a lot of reworking. A continuance suggests that there is a clear path towards an approvable project.

Commissioner Deignan noted a denial without prejudice, as opposed to a continuance, allows the applicants to come back just as quickly and is more a matter of semantics. Planning Director Toft agreed and noted the applicant could continue the process. He noted the site was constrained and the parking was challenging. Commissioner Deignan stated it was clear that the project needs to be smaller and how they decide to do that could have major ramifications.

Chair Tauber reopened the Public Hearing.

Mr. Layton made the following comments:

- It was clear that the key thing triggering the variance and square footage was the downstairs.
- He had questions about the financial impact of a continuance vs. a denial. Senior Planner Teiche stated staff bills on an hourly basis regardless of a denial or a continuance.
- He could have revised plans back in two weeks.

Commissioner Deignan stated the Permit Streamlining Act requires action within a certain period of time and this would put more pressure on the applicant.

Commissioner Ziesing suggested they address everything mentioned in the staff report- they are all exacerbated by size. They need to build to the lot as opposed to what they want to build. The Commission wants to approve projects. This project, as proposed, would set precedence and change the character of the neighborhood. They need to look at what would be best for Larkspur and balance this out with what would be best for the applicant.

Planning Director Toft noted staff would need to bring back findings for denial at the next meeting as a Business Item and the applicant could appeal that decision.

Mr. Layton made the following comments:

- The Commission seems to like the exterior of the building.
- There seemed to be concern about the bulk and mass.
- He has tried to make sure the second story steps in, is not that large, and conforms to City guidelines.
- The re-submittal would focus on reducing the basement area and would not result in a big change to the exterior of the building, but it would be smaller square-footage wise. It would look a lot like this application

Commissioner Ziesing provided the following comments:

- The comments made that the design is attractive does not say it is not too big.
- The design picked up the style of the neighborhood.
- Visually, the spirit of the design is on point.
- The size of the house is too large for the lot and triggers other issues.
- A remodel of this size should conform to current setbacks and not what was grandfathered in.
- The entire project may be too deep, too long, etc. It feels like too much house for a 6,000 square foot lot.

Chair Tauber provided the following comments:

- She is wondering if this lot could accommodate a 4-bedroom house. A 3-bedroom house is more realistic.

Commissioner Ziesing provided the following comments:

- Some styles of architecture do not lend themselves to stepping back.
- The eastern elevation is intense and there is a section that presents a fair amount of vertical- it could be broken up.
- They are trying too hard to get that extra square footage on top.

M/s, Deignan/Ziesing motioned and the Commission voted 3-0-2 (Commissioner Kunstler and Sandoval absent) to deny without prejudice DR/FAR/V/#15-59, 8 Alexander Avenue, based on the information provided by staff and the Commission comments regarding bulk and mass, size of the dwelling, variance issues, etc.

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

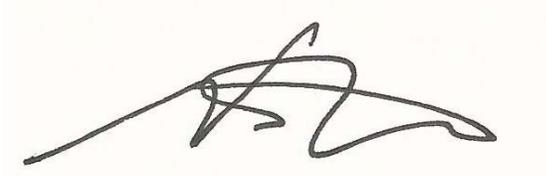
Planning Director Toft stated staff would return with findings of denial at the next meeting.

The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a special meeting of the Larkspur Planning Commission on March 29, 2016.

A handwritten signature in black ink on a light beige background. The signature is stylized and appears to read 'Neal Toft'.

Neal Toft, Planning Director