

LARKSPUR PLANNING COMMISSION
MEETING MINUTES OF OCTOBER 11, 2016

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

Commissioners Present: Chair Laura Tauber, Monte Deignan,
Daniel Kunstler, Mark Sandoval

Commissioners Absent: Todd Ziesing

Staff Present: Planning Director Neal Toft
Associate Planner Anna M. Camaraota
Senior Planner Kristin Teiche

OPEN TIME FOR PUBLIC EXPRESSION

Ms. Cindy Winter, Greenbrae, stated the Transportation Authority of Marin (TAM) is going to hold a Public Innovative Workshop about autonomous vehicles and ride-sharing apps in January or February of next year. She urged everyone to attend since this will have a huge impact on land use planning.

PLANNING DIRECTOR'S REPORT

- The City Council reviewed the ordinance for junior second unit standards in September. Several Councilmembers asked for data on parking generation and impacts to neighborhoods, and whether there is information on the degree to which they may or may not facilitate short-term rentals. He also stated that the State had recently adopted new standards for second units that limit parking requirements and increase size allowances for second units. These changes somewhat undermine the incentives for junior second units and could affect the discussion on the matter. The item was continued to next week's Council meeting.

PUBLIC HEARING ITEMS

1. **DR #16-26; 552-556 Magnolia Avenue (AP # 020-254-13); Ms. Erin Hurley, Larkspur Bike and Bean, Applicant; Ettefagh Family 2012 Living Trust, Maryam Ettefagh Revocable Trust, Shahrokh Nazari, Property Owners; SD (Storefront Downtown) Zoning District. The applicant is requesting Design Review approval for various existing and proposed outdoor storage structures and amenities at 553 and 556 Magnolia Avenue, at the easterly side of the retail structures, facing toward the public multi-use pathway and serving following businesses: King of the Roll and Larkspur Bike and Bean. CEQA Status: Categorically Exempt pursuant to Sections 15303 and 15304 of the California Environmental Quality Act (CEQA) Guideline**

Senior Planner Teiche presented a staff report.

Commissioner Kunstler stated at the last meeting the Commission discussed the different prerogatives of the tenants and the owners and that these are improvements that fall within the capability of the tenants to implement. He asked if anything that was decided now would be "grandfathered" in automatically or could a condition be made to require removal of these improvements on a future application. Senior Planner Teiche stated a new application could open the door for cleaning up additional features that the Commission might think were appropriate. Planning Director Toft stated it would depend on the type of application and the nexus of the

condition. The Commission's authority to exact improvements depends upon how they relate to the proposed project. Commissioner Kunstler asked if a Design Review application would give them the necessary leverage and discretion to remove those sheds. Senior Planner Teiche stated "yes" - if the Design Review application was to remodel the center in general.

Commissioner Sandoval asked if the shed located at the King of the Roll was intended to block the garbage. Senior Planner Teiche stated it was used to provide storage for their amenities. Commissioner Sandoval asked if the garbage for the bike area was behind some screening. Senior Planner Teiche stated the proposal is to put it behind the lattice screen. However, neither of the trash containers were identified in the site plans.

Commissioner Deignan stated the nail salon business was absent from this application and these tenants could also ask for another set of sheds, lattice work, etc. They are not seeing the full impact by doing this piecemeal. Senior Planner Teiche stated these owners have the right to apply for the same types of improvements. A lattice screen for the trash might be handled by staff but other outdoor improvements would be reviewed by the Commission.

Commissioner Sandoval stated these businesses operate at night and he was concerned about the lighting. Senior Planner Teiche stated there did not seem to be any lighting proposed beyond what currently existed.

Chair Tauber opened the Public Hearing

Ms. Erin Hurley, applicant, made the following comments:

- She distributed some photographs showing what the King of the Roll plans to do.
- The shed will be turned 90 degrees and painted green. It will have a smaller profile. It will not cover the window.
- The garbage could be placed at the back of the shed (closer to the building) or where it is currently located. The lattice would cover it.
- The plantings would be improved.
- The all-weather chairs would be steel framed which prevents rusting.
- She previously submitted proposals for the improvements to Larkspur Bike and Bean.

Commissioner Kunstler referred to the black roof for the pop-up and asked if it was a new roof or if the existing one would be painted. Ms. Hurley stated paint would not work- it would be a new, black roof. Commissioner Kunstler asked if the metal frame would be replaced by wood. Ms. Hurley stated a pop-up needs a metal frame.

Chair Tauber stated the intent of the lattice would be to hide the cans- but lattice tends to be see-through. Ms. Hurley stated it could be supported with plywood in the back.

Commissioner Sandoval asked if the shed would be flush with the building or flush with the wall. Ms. Hurley stated they are open to either plan. It would protrude into the alley. The garbage is currently lined up on the side of the building and the shed. Another idea is to bring the shed out and away from the building wall and put the garbage behind it.

Senior Planner Teiche asked if there was anything holding up the lattice shown in the picture. Ms. Hurley stated "no" – it would have to be supported.

Commissioner Kunstler referenced the picture submitted by Ms. Hurley and asked if the proposal was to shift the shed away from the building wall to the south so the garbage could be tucked between the shed and the wall of the building. It would then be obscured by the lattice. Ms. Hurley stated that was one proposal- they are willing to be flexible.

Chair Tauber asked why they were moving the shed away from the building. Ms. Hurley stated the idea was to move it away from the historic building. Commissioner Kunstler asked if they could move it far enough away to make room for the garbage cans. Ms. Hurley stated “yes”. Commissioner Sandoval asked if the space between the two buildings was about 10 feet. Ms. Hurley stated she was not sure- she did not measure it. Commissioner Sandoval asked what was in the shed. Ms. Hurley stated “to-go” containers were in the shed.

Commissioner Kunstler asked if they have looked into a second sail shade in lieu of the pop-up shade. Ms. Hurley stated that could be considered.

Mr. Mark Roth, Camellia Circle, made the following comments:

- He was concerned about the proliferation of trashcans in that area.
- He was concerned about the accumulation of debris behind the warming hut.
- He was concerned that the Bike and Bean business has taken on all the responsibility of this process. He was not sure that was the way the process should work.
- It should not be incumbent on one business to be responsible for all the other businesses.
- He wanted to know where the property owner was in this process.
- The result of this process will be less than optimal.

Ms. Joan Albright made the following comments:

- There are unauthorized lattice, chairs, tables, and heat lamps also outside the juice place and martial arts.
- She asked for clarification about parking on the path.
- She asked how early the businesses could be opened. There’s a lot of activity early in the morning.
- There is a lot of activity going on under her widow in the morning and in the evening.
- It is beyond the noise ordinance.
- The situation is getting out of control.

Ms. Cindy Winter, Greenbrae, made the following comments:

- Any code violations should be rectified.
- A certain amount of neatness is required.
- She was sure the deeds to the condominium do not contain entitlements to gentrification of the area.
- The Planning Commission has descended into trivialities and should turn their otherwise good minds to more substantive issues.

Mr. Richard Green, Rose Lane, made the following comments:

- He lives on the second floor of the condominium complex and sees all the trash and hears all the noise.
- This wonderful path is almost completely obstructed.
- He displayed a photograph of the “eyesore”.

Chair Tauber closed the Public Hearing.

Commissioner Kunstler provided the following comments:

- It behooves the Commission to restrict itself to the merits of this application and not the entire situation of those sets of buildings.
- He shares some of the frustration expressed.
- He agrees that one business owner should not shoulder the entire burden.
- This application does not solve all the problems.

- He referred to the bike store- there is already a shed in place that is painted to match the building (it is a pre-existing condition).
- The major design element at this end of the property is the sail shade structure- it is an improvement.
- He is sympathetic to replacing the pop-up tent with a different material- hopefully one that does not sag.
- These are minor improvements- some of them do not seem to rise to the level of Design Review because they do not represent “design”.
- Some of the issues go beyond the scope of this application and are not the responsibility of the tenant.
- He is frustrated that the property owner is not participating in this process.
- He would like to give staff discretion with respect to the chairs, the lattice, and placement of the shed.
- The property owner should not be “off the hook”.
- He could support the application.

Commissioner Sandoval provided the following comments:

- He sympathized with the tenants-they are not getting the support from the property owner.
- There are some fundamental issues that cannot be avoided.
- The public has brought up some interesting points.
- The modifications are a hodgepodge and are not comprehensive.
- The Nail Salon could come in at a later date asking for similar improvements.
- The bar has been lowered.
- They have to look at suggesting what works and what does not work.
- The King of the Roll building is a significant, historic building. It is obstructed by a shed- this is not preservation or a good way to present the building.
- There is an abundance of bins and garbage containers that are constantly migrating from one spot to another.
- He would like to see some type of unification of the property- a place where the garbage is collected, stored, and not seen.
- There are issues that are not addressed- parking on the pathway and the future of the pathway. These are beyond this application.
- He is concerned that they are talking about introducing items that could have potential problems with respect to fire due to their relationship to buildings. He would like some thought put into the Building Code.
- This is an important route.
- Accountability is important- some of the tenants are not involved and neither is the property owner.
- He has a problem supporting the application- he could not see any cohesion and it would not ultimately address the issue at hand.

Commissioner Deignan provided the following comments:

- The common theme is frustration.
- The Commission provided some insights during the last meeting but they are not seeing much of that.
- There are some improvements, mainly the color being used to tie the various elements together.
- The property owner should have come up with a comprehensive plan with a central location for all the trash with an enclosure that meets Fire Codes.
- The improvement at the King of the Roll “(the lattice and the planter boxes) are temporary things.
- The Commission could ask for a lot of things but these are small businesses.
- He agreed with Commission Kunstler- staff should be given more latitude.
- Trash enclosures being surrounded by lattice is not acceptable. They need to be camouflaged.

- He is sympathetic to the Bike and Bean owners, the property owner should have been more involved.
- It is close but needs more work. He asked if staff was willing to take this on or should the Commission see a final solution that better addresses the issues.

Planning Director Toft stated that reason the matter is before them is that City has been involved in a yearlong enforcement process to clean up large storage containers that were on the site and unauthorized grading/tree impacts. Some of the items have been corrected. Staff has also responded to a variety of complaints with respect to the various permitted commercial activities and the pathway easement. The City has been working with the property owner and has started to achieve better communication with the ownership group. However, the application is to correct the violations. The tenants have come to get the sheds legalized- without support from the property owner. If the Commission denies the application, the City will inform the property owners that they have not fulfilled their obligation to correct the shed violations.

Commissioner Kunstler asked if the property owner was subject to fines since the shed were non-compliant. Planning Director Toft stated "yes- and they need to be removed". Commissioner Kunstler asked if the fines would be sufficient to "twist their arms" to do something more comprehensive. Planning Director Toft stated he did not know if that would persuade the owner to make holistic changes. Commissioner Kunstler noted the tenants seemed to be "held hostage". Planning Director Toft suggested that the Commission needs to determine whether the City can live with these limited improvements for the time being. Staff had been advising the property owner from the very beginning to provide a more comprehensive plan. They decided not to do that and it has been the burden of 1-2 tenants to address the issues. Commissioner Kunstler asked if the Commission could approve the Bike and Bean awning and the pop-up without approving anything else. Planning Director Toft stated "yes"- but it would still also require the removal of the sheds.

Chair Tauber provided the following comments:

- She is sympathetic to the business owners.
- There is a desire to have this area look like "the new front door"- it should be more attractive and not include a shed or garbage.
- It behooves the owner of the property to come up with a centralized garbage enclosure.
- There needs to be cohesiveness to this area- this probably includes the removal of the sheds.
- There might need to be a common storage area created somewhere on the site.
- The lattice does not work- it does not hide anything and it not very attractive.
- Approving the application does not get them where they want to be collectively.
- The burden should not be on the owner of Bike and Bean.
- It was not something she could approve.

Commissioner Deignan provided the following comments:

- He agreed with the comments made by Chair Tauber.
- While it may be a "temporary situation" - it could be here for a number of years.
- The application is not close enough to living up to the requirements that the Commission or the neighbors expect.

Commissioner Deignan asked the applicant if there was anymore she could do to address the concerns.

Ms. Erin Hurley, applicant, made the following comments:

- She is willing to work with the Commission and staff to resolve the situation.
- She asked if the original code enforcement issue pertained to just the shed or also the trash. Planning Director Toft stated it was not specific to trash. He stated it seems the Commission's position was that the sheds need to be considered within the context of other things going on

around them, including trash and landscape facilities. Staff did not do code enforcement on every aspect of the frontage.

- It is difficult to consider the trash for this site since there are two “fronts” and alleyways- they are trying to enclose it. Here’s nowhere to put the garbage from all the tenants.

Commissioner Kunstler noted if the Commission denied the application then the applicant could appeal that decision to the City Council- and this might hold the property owner’s “feet to the fire”.

Commissioner Deignan stated it would help to just enclose the trash. He stated he had less of a problem with the sheds- they are not attached to the building and are temporary structures. The Council may look more favorably on the application than the Commission.

Commissioner Sandoval asked if a centralized storage and trash area would work for the businesses. Ms. Hurley stated that was a good idea. Commissioner Deignan stated that would require some commitment on the part of the property owner- this might not be “in the cards”. Commissioner Sandoval stated the existing sheds were not acceptable and should be removed. He reiterated the need for a comprehensive, effective plan.

Commissioner Kunstler suggested sharing sheds for purposes of separate storage and garbage, including the area across the driveway.

Ms. Hurley stated she was open to ideas.

Planning Director Toft stated that the area across the driveway is dirt. New structures there would complicate the application. These are buildings were not built for the purposes they are now serving. Any substantial level of improvement that perpetuates the existing condition would not serve the vision of the CLASP. He cautioned Planning Commission not to expect too much, given what is out there.

Ms. Hurley asked if she could put her garbage in her shed. Chair Tauber stated that would not be enough.

Planning Director Toft explained various options for conditions of approval, if the Planning Commission sought to approve the sheds.

Commissioner Sandoval stated that they needed a comprehensive plan and both the sheds and the garbage are a problem that need to be resolved. It needs to be cohesive and attractive.

M/s, Deignan/Sandoval motioned and the Commission voted 3-1-1 (Kunstler voted no, Ziesing absent) to deny, without prejudice, DR #16-26, 552 & 556 Magnolia Avenue based on the concerns about the sheds and the trash enclosures.

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

PUBLIC HEARING ITEMS

- 2. DR/VAR/EXC #16-34; 254 W. Baltimore Avenue (APN #021-112-23); Heather Wright, OXB Studio, Applicant; Schermco, Inc., Owner; R-1 (First Residential) Zoning District. Request for the following permits to allow partial demolition, major interior remodeling and a two story addition resulting in an overall expansion of 926 square feet to the existing 1,564 square-foot single family residence: 1) Design Review; 2) Variance to permit an 11-foot, 8-inch setback from the rear easement line, where 20 feet is required; and 3) Exception**

Permit to allow 42.5 linear feet of an existing non-conforming wall and eave overhang to continue to encroach into the 5-foot east side yard setback.

Associate Planner Camaraota presented a staff report.

Commissioner Sandoval asked if a landscape plan was submitted. Associate Planner Camaraota stated “no”.

Chair Tauber opened the Public Hearing

Mr. Barry Sherman, property owner, made the following comments:

- They have successfully met all the necessary conditions.
- They are trying to bring the property into the 21st Century.
- The original house was poorly designed.
- They are trying to maintain the character and charm of the house while enhancing the appearance.
- They are very cognizant of vehicular traffic and will take extreme care to keep the alleyway open and usable for all neighbors.
- Construction materials will be kept on-site.

Mr. Ted Bonneau, architect, made the following comments:

- He discussed the intent of the design
- The rear portion of the structure is poorly designed and built. It is slab on grade and appears to have been a converted garage. It is musty smelling and only accessed through a bedroom. They plan to tear it down.
- They plan to tear down the accessory structure which would open up the rear yard for the addition.
- The two-car garage will be in the same location as these existing structures. This is the reason for the variance.
- The rear wall of the garage lines up with the same rear wall of the existing structure.
- The front yard is picturesque.
- The addition at the rear allows for the required parking.
- The removal of the accessory structure allows for two spots.
- The second story addition located over the garage at the rear keeps the mass farther away from public view.
- They designed the house so the style fits in cohesively with the existing architecture.
- This is a one-story house amidst a neighborhood of many two-story houses.

Commissioner Sandoval asked about the site drainage along the east and west side yards (downspouts, discharge, etc.). He asked if they were anticipating a closed system. Mr. Bono stated it would probably be a closed system with pipes underground. They have not started to think about that. Commissioner Sandoval noted they did not have a lot of space.

Commissioner Sandoval asked if they planned any screening between the house at 260 W. Baltimore. Mr. Bonneau stated there was an existing tree and fence. The Public Works Department asked them to lower the height of that fence for safety reasons. They plan to rebuild a portion of the fence that extends behind the neighbors structure at a height low enough to be able to see over. Commissioner Sandoval asked about the surface material (“new gravel”). Mr. Bonneau stated that would be used for the uncovered parking area. The area in front of the garage would be concrete.

Mr. Steve Phillips, 260 W. Baltimore, made the following comments:

- He lives next door on the west side.

- He likes the plans- they do not impact his view.
- The design is tasteful and proportional.
- He has a few issues related to construction- he objected to work being done on Saturdays.
- The alleyway surface is not meant for heavy trucks- it gets chewed up easily and is already in a dilapidated state. It should be repaired or repaved when construction is done.
- The back third of the existing fence needs to be replaced- it has disintegrated.

Mr. Joe Keene, 250 W. Baltimore, made the following comments:

- He agreed with the comments made by Mr. Phillips.
- The plans look good.
- The architects have done a good job.
- Most of the major construction would happen 8' to 10' from his bedroom window downstairs.
- He endorses a restriction of the construction hours on Saturdays.
- They need to limit blocking the alley as much as possible.
- Construction vehicles should never be allowed to stop and pause in the alley, even for deliveries.
- This is the fourth major project in the block in the last 24 months.
- He would like to see the alley resurfaced after construction.
- He requested that the project not use West Baltimore- it is severely constricted and it is difficult for two vehicles to pass. The addition of construction vehicles would wreak havoc.
- Vehicles related to the construction should park around the corner on Foley or Madrone.
- He referred to the arborist report, photograph #7, noting that the Maple is on his property and the root ball extends onto the subject property. The tree has been growing over the accessory structure (on the subject property). The removal of that limb and the addition of the second story would result in a tree that is entrapped between two, two-story buildings. It will be a "Mohawk".
- His lower story bedroom is currently receiving filtered air and light from the west side- it will now be blocked by the second story. The only way to recover that light and air would be to remove the tree entirely.
- The tree does not have a future. The tree is already infringing on the foundation of the structure and is lifting the concrete on his side.
- The best time to remove the tree is when the structures are gone, and a crane can get into the alley.
- He asked for a change in the configuration and possibly the size and location of a couple of the windows (on the south side, second story). They would face at a 45-degree angle into bedrooms and hallway windows.

Ms. Heather Wright, architect, made the following comments:

- She met with Mr. and Mrs. Keene to discuss the plan.
- She referred to the windows in question and stated it would be possible to raise the sill of those windows, making them clerestories or making them a screened window (sandblasted) and leaving them in the existing configuration.

Ms. Rebecca Archer, Madrone Avenue, made the following comments:

- She asked if the windows could be higher.
- Parking on Madrone and Baltimore is a problem due to construction vehicles.
- This is a good design for that site.

Ms. Susan Bartholomew, Madrone Avenue, made the following comments:

- They are the only house down the alley. This is the only way emergency vehicles can get to her house.
- She appreciates the efforts to make sure the alley stays clear. It is very important.
- The alley surface must remain smooth and free of potholes. They had an incident when an ambulance could not come all the way down the alley due to the pot holes.

- There is a drain that runs across the 20-foot easement right behind the subject property that must be maintained.
- She paid to have it repaired when the bottom half of the alley was repaved.
- A lot of water comes down the alley.
- She is pleased with the design- it is appropriate for the area.
- The applicant's team and the contractor has reached out to the neighbors and she appreciates that.

Chair Tauber closed the Public Hearing.

Commissioner Deignan provided the following comments:

- The staff has accurately characterized the arguments for approval.
- He is often hesitant to grant a variance- it is a higher hurdle to overcome.
- The site constraints and the unique conditions allow for granting the variance.
- The developer and contractors should work with the neighbors.
- He asked if the Commission had the ability to restrict construction on Saturdays. Associate Planner Camaraota stated this was regulated by the Noise Ordinance- a reduction in hours would have to be agreed upon by the contractor.
- He asked if the alleyway was a public street. Associate Planner Camaraota stated "no"- it is an easement that runs through the backs of the properties and over the top of the subject property. It is an access and utility easement- she is not aware of any language that has to do with maintenance responsibilities. Ms. Bartholomew she has a deeded easement all the way down to her house. The property is owned by the homeowners on the west Baltimore side of the alley. Each segment is privately owned.
- Typically a public street would be videotaped prior to construction and whatever damage occurred as a result of the construction would need to be repaired.
- He asked if the City would get involved with what happens on or to the easement.

Planning Director Toft stated he did not think so. The City has not maintained it. For the purposes of zoning, the City recognizes it as access. It is possible that the City could include paving of the alley as an add-on to a street paving project, at the property owners' expense. That would have to be discussed with the Public Works Department.

Commissioner Deignan stated the following:

- He could approve the Design Review application.
- He commended the architect for not over-building.
- He urged the architects to come up with a compromise for the windows.
- He could support the application.

Commissioner Kunstler provided the following comments:

- He agreed with the comments made by Commissioner Deignan.
- The design is close to perfect for that property.
- He encouraged everyone to come up with a solution for the windows.
- He could approve the Exception Permit and the Variance.
- He could support the application.

Commissioner Sandoval provided the following comments:

- He agreed with the comments made by the other Commissioners.
- He could approve the Design Review application.
- He could make the findings for the Variance and Exception Permit.
- He applauded the developer for reaching out to the neighbors and starting a dialogue.
- He could support the application.

Chair Tauber provided the following comments:

- It is a difficult site.
- They have done a good job designing something that works on the site without overbuilding it.
- She could make all the findings.

M/s, Kunstler/Deignan motioned and the Commission voted 4-0-1 (Ziesing absent) to approve DR/VAC/EXC 16-34, 254 W. Baltimore Avenue, subject to the findings and conditions set forth in the staff report.

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

BUSINESS ITEM

1. Adoption of Findings of Denial for application DR/FAR/SUP/HTR/V/EXC #15-61; 75 Frances Avenue; (APN 020-062-03) Aurora Morris Applicant; Carlo Khatchi, Property Owner, R-1 (First Residential) Zoning District. This application was previously heard on September 7, 2016

Planning Director Toft presented the staff report.

M/s, Deignan/Sandoval motioned and the Commission voted 4-0-1 to adopt the Findings for Denial for application DR/FAR/SUP/HTR/V/EXC #15-61, 75 Frances Avenue.

2. Commissioner Reports

Commissioner Ziesing reported there was construction happening on William Avenue with blocked sidewalks. It is a dicey situation.

Commissioner Kunstler reported PG&E replaced a pole on the corner of Holcolm and William and the street lighting with something that is very bright at night. It creates unnecessary light pollution at that corner. Planning Director Toft stated they would be seeing more LED fixtures as opposed to high-pressure sodium bulbs that give off an amber glow. He would talk to the Public Works Director.

3. Approval of minutes of Planning Commission meeting on September 27, 2016

M/s, Kunstler/Sandoval motioned and the Commission voted 4-0-1 (Ziesing absent) to approve the September 27, 2016 minutes as submitted.

The meeting was adjourned at 9:37 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 Planning Commission on November 9, 2016.



Neal Toft, Planning Director