

LARKSPUR PLANNING COMMISSION
REGULAR MEETING MINUTES OF OCTOBER 23, 2018

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

Commissioners Present: Chair Monte Deignan, Daniel Kunstler,
Ignatius Tsang, Todd Ziesing

Commissioners Absent: Laura Tauber

Staff Present: Planning Director Neal Toft
Senior Planner Kristin Teiche
Assistant Planner Nicholas Armour
Planning Consultant Lorraine Weiss

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- He reminded Commissioners to submit his or her Certification of Ethics Training by the end of the month.
- He stated the Commission will meet on November 13th and December 11th (only once a month) due to the holidays.
- The Oak Road Subdivision has recorded their Subdivision Improvement Agreement with the City. Staff anticipates bringing some single-family home applications to the Commission in the near future.
- At its October 17th meeting the Council acknowledged the request of the Larkspur Library and Community Center Task Force to begin raising money for a new facility. The Council recognized the group as the primary fundraising group. They will begin to map out a process to identify the scope of the project and the fundraising for that project.

CONSENT CALENDAR ITEM

1. **DR/V/FAR #18-37: 434 Madrone Avenue (APN: 021-037-14); Studio Pablo Architecture, applicant; Allison Bunker, property owner; R-1 (Single Family Residential) Zoning District. Applicants are seeking approval of the following permits to allow construction of a mid-level addition at the front of the residence, below an existing deck and above a ground floor terrace, and for after-the-fact approval of two storage sheds: 1) Design Review; 2) Variance to allow a portion of the proposed mid-level addition to encroach up to 3 feet 4 inches, and a corner of a storage shed to encroach 2 feet into the 20-foot front yard setback; and 3) Allow additions totaling 379 square feet (202 sq. ft. mid-level addition and two accessory sheds totaling 176 sq. ft.), thereby increasing the home from 2,535 sq. ft. and a 0.32 FAR to 2,737 sq. ft. and a 0.34 FAR where 0.05 is permitted due to the slope of the parcel.**

Planning Director Toft stated there were some revised Conditions of Approval, recommended by the Public Works Department, on the dais.

Chair Deignan asked if anyone would like to comment on this item. There was no response.

On the Consent Calendar, M/s, Kunstler/Ziesing, motioned and the Commission voted 4-0-1 (Tauber absent) to approve DR/V/FAR, #18-37, 434 Madrone Avenue, based on the findings and conditions set forth in the staff report along with the revised Conditions of Approval.

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

2. DR/FHE/EXC #18-16: 22 Olive Avenue; (APN 020-061-02); Lotche Architectural Group, applicants; Brian and Shari Mueller, property owners; R-1 (First Residential) Zoning District. Applicants are requesting the following permits to perform an interior remodel, raising of roof heights, exterior modifications, and a fence height exception: 1) Design Review; and 2) Fence Height Exception to permit construction of a 5-foot 6-inch tall cedar fence in portion of the front yard, where 42 inches is the maximum height allowed; and 3) Exception Permit to allow modifications to non-conforming structure located 18 feet 3 inches from the front property line, where 20 feet is required by code.

Assistant Planner Armour presented the staff report. He noted the applicant submitted a letter with six signatures from neighbors supporting the project.

Commissioner Kunstler stated the Design Review and Exception Permit seemed redundant. Assistant Planner Armour stated the Exception Permit was required for two purposes: 1) The replacement value exceeds the 60% valuation threshold; 2) Modifications are being made to openings in non-conforming setbacks.

Commissioner Kunstler asked if the Fence Height regulations covered pools. Assistant Planner Armour stated “yes”- the fence must be at least five feet high.

Chair Deignan opened the Public Hearing.

Mr. Brian Mueller, owner, made the following comments:

- This project started as moving around some rooms and making the layout more efficient.
- They decided to change the design into something that fits with the neighborhood and their tastes.
- They modified the interior a bit (kitchen, bathroom, and kid’s bedrooms).

Commissioner Ziesing had questions about the roof deck (lighting, sound, etc.).

Mr. Mueller made the following comments:

- The roof deck stems from the way the property is positioned. It is sloped.
- The objective is to open up some of that space.
- They tried to keep it modest and remain mindful of the privacy factors.
- It is almost invisible from the street.
- They plan to use it during the day.
- Lighting would primarily be for safety. He does not anticipate any overhead lighting.

Commissioner Ziesing asked about the need for the front fence height exception.

Mr. Mueller made the following comments:

- They are reducing the overall open flow of the yard
- They are creating a private space that is less of a yard and more of a side patio area.
- The net effect for the street view would be positive- they are removing the slotted fence.

Commissioner Tsang referred to the neighbor to the east and asked if there would be any privacy issues in terms of the roof deck. Mr. Mueller stated “no, and they have a letter of support”.

Commissioner Tsang stated the sidewalk was in need of repair and he asked if this would be the responsibility of the homeowner. Associate Planner Armour stated “yes”. Commissioner Tsang stated it was quite hazardous.

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

- He pointed to a feature that he wondered about from a Design Review standpoint- a “tall, windowless box”.
- It seems to add height and mass needlessly.
- The house is close to the sidewalk and is being made taller.
- There should be a way to break up the feature so it is less obtrusive and looming to the sidewalk.

Chair Deignan closed the Public Hearing.

Commissioner Ziesing provided the following comments:

- He has no problem with Design Review- the exterior modifications are handsome.
- He really likes the design.
- He is fine with the entrance way- it will compliment what is going on with the house.
- He is fine with the concrete stairs.
- The roof deck caught his attention- they are generally not allowed.
- A variance is issued due to a hardship, etc. The lot is smaller and sloped.
- The hardship would be to provide more usable space for the house.
- It is designed in a subdued way and would have minimal impact to the neighbors.
- He could support the roof deck.
- He has an issue with the Fence Height Exception.
- The Commission wants to keep fences low to avoid a “Beverly Hills Compound” appearance and maintain an open community.
- He would like to see less than 66 inches. Other fences on the street are taller than the 42-inch height limit, but are a more permeable design.
- He could approve the Exception Permit for the windows.

Commissioner Tsang provided the following comments:

- This is a small scaled neighborhood.
- He loves the idea of the entry that breaks up the façade into what look like two, small-scaled buildings.
- This is a handsome design.
- This is a modern style building that is in character with the neighborhood.
- He could support the Design Review application and the Exception Permit.
- He has no problem with the Fence Height Exception because it is isolated on the east side and the rest is opened up.
- The drawings are not totally consistent with respect to the cabinets and windows.

Commissioner Kunstler provided the following comments:

- He agreed with Commissioner Ziesing’s comments about the fence and the roof deck.
- The Commission has been consistently wary of fenced-in properties.
- However, the fence covers only a small segment of the front of the property.
- Other requirements kick in due to the pool.
- He would like to see a shorter fence but will not object too strenuously.
- He does not love the roof deck but cannot find a reason to object to it given it is not visible from the street. They have made efforts to make sure it is not obtrusive.
- The modern style is consistent with the pattern of the neighborhood.

- He can support the project.

Chair Deignan provided the following comments:

- This is a sensitive, sophisticated, contemporary design in an eclectic area.
- The design would be worse without the “tower” referred to by Mr. Holmes- it helps break up that mass.
- The roof deck is small and well-located. The adjacent properties are not impacted. The neighbors are supportive.
- The fence is off to the side and not really in front of the house. It looks like another design element.
- He can make all the findings.

M/s, Tsang/Kunstler, motioned and the Commission voted 4-0-1 (Tauber absent) to approve DR/FHE/EXC #18-16, 22 Olive Avenue, based on the findings and conditions set forth in the staff report.

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

3. Accessory Dwelling Unit Regulations. Discussion on recent adopted State Laws affecting how local municipalities can regulate accessory dwelling units (ADU).

Planning Director Toft presented the staff report and gave a PowerPoint presentation focused on State Housing law and local housing goals and policies. The production of ADUs remains fairly low at one per year. He emphasized the question of whether the City should work to further incentivize creation of ADUs or should work to retain existing standards as much as possible.

Commissioner Ziesing referred to the Production and Performance slide and stated the governmental agency is not actually building these units- they are creating a structure to process permits and encouraging permits to have certain constraints. Planning Director Toft stated that the State Department of Housing and Community Development (HCD) used to review Housing Element for meeting certain goals and policies, but now state law required performance and production. He stated that the stated municipalities have to file an annual report to the State Office of Planning Research and HCD identifying housing production. The reporting has become quite detailed. The State is now rolling out some pretty “draconian” measures to remove barriers to housing, such as imposing ministerial review standards as a penalty.

Commissioner Kunstler stated he could understand the State reviewing permitting processes but neither the City nor the Commission has the power to produce the number of units the State wants. Planning Director Toft stated Larkspur was a fairly built-out community and it is frustrating to continue to receive the State’s housing numbers. Plan Bay Area and the efforts of MTC and ABAG have looked at transit-oriented development and granted some relief. The last Regional Housing Needs Assessment (RHNA) numbers were actually cut in half- the State has recognized the Bay Area’s constraints.

Commissioner Ziesing referred to Production and Performance and asked if there were discussions about incentives and financial subsidies. Increasing the amount of housing is one thing but a secondary issue is the infrastructure around the housing. Planning Director Toft noted some of the “carrots” are related to funding for infrastructure. He was not sure there were a lot of “carrots” for an area like Marin. A municipality might be better off producing housing through its own processes than waiting down the road for it to be imposed by other mandates.

Commissioner Ziesing asked if the City has a feel for the maximum load it can take- what is the breaking point? Planning Director Toft stated they were in the process of adopting the General Plan

update which will maintain the same densities and encourage some mixed-use and upper story housing in the commercial areas.

Chair Deignan stated it was helpful that the RHNA were lower and he asked if HCD acknowledges that this is a built-out community with few opportunities for substantial infrastructure improvements. Planning Director Toft stated HCD does not look closely at specific areas but looks at larger numbers. They leave it up to ABAG to identify how the Bay Area will meet its housing needs, and they are planning out to 2040 and 2050. They are prioritizing shooting for housing near jobs and reducing vehicles miles. He noted there were other significant issues at play such as sea level rise and the protection of waterfronts such as marshlands.

Commissioner Ziesing asked if there was a lobbying group in Sacramento that is the voice for small to medium communities. Planning Director Toft stated the League of California Cities represents all cities and advocates for local control. There are also housing groups, environmental groups, social justice groups, etc.

Planning Consultant Weiss discussed the State law mandates for ADU, the Larkspur ADU regulations, and next steps. She gave a PowerPoint presentation that focused on topics including parking, floor area, height limits, and locations.

Chair Deignan opened the meeting for public comment.

Mr. Nick Marini, Greenbrae, made the following comments:

- The elimination of parking standards for ADUs is significant to his home and family.
- He lives on a narrow cul-de-sac with 17 homes. The parking is constrained.
- There is one unpermitted ADU that forces two cars on the street.
- He is worried about emergency vehicle access.

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

- He referred to the staff report and stated one of the options was the possibility of eliminating the owner occupancy requirement.
- The requirement for owner occupancy should be retained.
- Absentee landlords are the bane of single family neighborhoods.
- Landlords monitor tenants much more carefully when they live under the same roof.
- Doing away with owner occupancy will work against the goal of affordability.

Chair Deignan closed the public comment period.

Commissioner Kunstler provided the following comments:

- He wondered if there could be some flexibility in the owner occupancy standard to allow for a rental that has a contract with a fixed maturity that would be long enough to not have an actual impact on the neighborhood.
- To what extent do they limit property rights.
- One lever they have is the maximum size of the ADU. Allowing 1,200 square feet would put more pressure on the parking situation.

Commissioner Tsang provided the following comments:

- If the purpose of ADUs is to add more units than the owner occupancy issue is moot.
- A family needs more space and 1,200 square feet makes sense.
- Affordability should be for singles, couples, and families.

Commissioner Ziesing provided the following comments:

- The purpose of the ADU is to have a unit that can be adjacent to an existing property where one or two people can live.
- They have to think about ADU's like they do regular permits. There is a parking impact that needs to be thought about.
- Owner occupancy requirements make sense.
- The size issue is important- too large and it goes from an ADU to a secondary dwelling unit.
- Low income housing aimed at families is a different permitting process and a different set of rules and regulations.
- This issue is about trying to get a little bit more density into the community by adding some space on existing properties while having low impact on the community.
- Ignoring the impacts to fire, safety, and traffic is not wise.
- The past is telling them about the future.
- They should have modest expectations about ADUs and address affordable housing through the Housing Element.

Chair Deignan provided the following comments:

- Landlords who do not live near the rental property have less control.
- He would like to retain the owner occupancy requirement but would consider an exception process.
- They need to be mindful of what the State is doing.
- A smaller unit is inherently more affordable.
- They need to make a good faith effort.
- They might be able to come up with a more nuanced version of the Station Area Plan.
- ADUs should be viewed as an infill situation where appropriate.

Planning Director Toft discussed how the City of Mill Valley, similar to Larkspur with hillsides and tight streets, was handling these issues. They are adding a bonus if the homeowner records a deed restriction to keep the ADU at some level of affordability. A floor area bonus is given if parking is provided and the unit is restricted. It is something the City could explore, however, he stated that requiring affordability is likely a deterrent. One thing to keep in mind is what is being discussed is relative to remodeling, development, and additions. The State has mandated that anybody can convert internal space anywhere to create a second unit without requiring parking. The City can only require replacement parking if necessary. Chair Deignan stated they have no control over that.

Commissioner Ziesing provided the following comments:

- He asked if they would be successful, in the eyes of the State, by creating four to five units a year. Planning Director Toft stated they would need to create more- five to ten a year.
- It is more feasible and practical to try to create low income housing through large projects.
- He does not like the idea of not requiring parking.
- They need to be pro-active while also being defensive.
- This is a cultural direction that the Council has to embrace.

Chair Deignan provided the following comments:

- He would like to get a reality check and see what other communities are doing.
- They need to comply with the wishes of the State.
- He likes the idea of integrating the units into the community.
- The owner occupied aspect is very useful.

Commissioner Kunstler provided the following comments:

- When reviewing an application for a large property he looks at the square footage of the south facing roof and looks for solar panels.
- Similarly, they could look at whether a project is conducive to accommodating a future ADU.

Commissioner Ziesing provided the following comments:

- He sees the state as telling the City to do these units a certain way.
- It is really a City Council whether to really encourage these units or just work with the mandates.

Planning Director Toft noted second units were currently restricted to 700 square feet (a studio or one-bedroom). He asked if the Commission would be interested in allowing a bonus to that size if the owner does “x, y, or z”. In terms of the height, mandates assume that second units will be built over garages or accessory structures. Larkspur currently limits the height of accessory structures to 15 feet. It could provide more flexibility and be an incentive to allow accessory structures to be taller. This would be a standard that would not necessarily be subject to Design Review. He asked if the Commission would be interested in looking at more flexibility in terms of height.

Chair Deignan provided the following comments:

- It depends on the location and the design.
- Fifteen feet is on the low side.
- He would allow more latitude if it fits in well and does not exacerbate bulk and mass.
- He does not want to open the door to “boxes”.

Commissioner Ziesing provided the following comments:

- He agreed with Chair Deignan.
- They could add an amendment that says “the consideration of accessory dwelling units would be a factor in the Design Review process”.
- There could be an adjacent use consideration if the structure has or does not have an ADU.
- The bulk and mass piece is a real issue.

Chair Deignan provided the following comment:

- He asked staff if they want the first submittal to HCD should pass with “flying colors” or is it oaky for HCD to maybe want some changes. Planning Consultant Weiss stated HCD want something submitted within six months of Council adoption. Planning Director Toft noted that HCD reviews an “official draft” of the Housing Element before final, but they are not expecting that intricate of a process. He was not confident it would be a good idea to present them with a draft.

Planning Director Toft acknowledged the Commission’s concerns with height, parking, hillsides... etc.

Planning Consultant Weiss asked if the Commission would consider some kind of standard that a second story accessory structure would be acceptable if it were set back from the first story. The Commission stated “no”. Chair Deignan stated the “devil was in the details”.

Planning Director Toft stated that he is getting some direction from the Commission’s comments. The train is coming, the ferry is active, and the State is leaning more and more towards development. The JADU program has not panned out. The City has sites that are in need of redevelopment, etc. and there are growing opportunities to partner with not-for-profits for more affordable housing. There should be more future funding from the State for housing projects.

Planning Director Toft stated the City has not restricted second units by location in the past but the Fire Department has concerns with some areas.

Commissioner Tsang provided the following comments:

- This is about adding affordable housing to the community.

- The Housing Element should not be piece-meal and try to insert accessory units into the community when they cannot be supported.
- He was concerned about the pressures on the infrastructure, etc.
- These units should be included in major, mixed-use development project that are near transit.
- Creating five to ten of these units does not do anything- they need to create fifty of them at a time.

Commissioner Ziesing provided the following comments:

- As a concept he wants to be very open to accessory dwelling units as a way of fractionally addressing affordable housing. But these are “singles, not doubles or triples” - they also need some “home runs”.

Chair Deignan provided the following comments:

- With respect to the Fire Department concerns, he could see not allowing additional units in areas such as the end of Madrone Canyon.
- They might want to rethink development in areas such as the Wildfire Urban Interface Areas, etc.
- The real answer to the housing crisis probably lies in something at the Larkspur Landing or Ferry Terminal areas.

Planning Director Toft noted that the CLASP also provides for more housing. He stated it was good to get a sense of the Planning Commission's position that ADUs should not be considered the panacea for housing. There might be better opportunities through the Housing Opportunity Sites as opposed to just “scatter shot” development in the neighborhoods.

BUSINESS ITEMS

1. Commissioners Reports

There were no reports.

2. Approval of minutes of Planning Commission meeting on September 11, 2018

M/s, Kunstler/Tsang, motioned and the Commission voted 4-0-1 (Tauber absent) to approve the minutes from the September 11, 2018 meeting as submitted.

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Toni DeFrancis,
Recording Secretary

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Larkspur Planning Commission on November 13, 2018.



Neal Toft, Planning Director