

LARKSPUR PLANNING COMMISSION
REGULAR MEETING MINUTES OF SEPTEMBER 8, 2020

The Larkspur Planning Commission was convened at 7:00 p.m. by Chair Tauber via teleconference due to the Coronavirus (COVID-19).

Commissioners Present: Chair Laura Tauber, Natasha Chalmers, Daniel Kunstler, Jeffrey Swisher, Brock Wagstaff

Staff Present: Planning Director Neal Toft
Senior Planner Kristin Teiche
Assistant Planner Aaron Matthews

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- Submittal of Planning applications has slowed down but staff is processing a lot of Resale Reports, solar permits, and permits for generators.
- Progress is being made on the General Plan Update. Discussion on the Circulation Element has been completed and the General Plan Steering Committee will begin discussions on the Land Use Element. Staff is working with the consultants on the upcoming release of the draft document next month.
- Staff will be participating in demonstrations from software providers involving various modules including permit planning, inspections, planning review, code enforcement, and GIS. The goal is to make sure they find software that will be a good fit and that the company provides the support that staff will need.
- Marin County is working on Sir Francis Drake Boulevard to improve intersections and upgrade bicycle and pedestrian facilities. The project will not improve capacity but provide more efficient vehicle flow. The project is moving eastward and will continue for the next several years. He will send the Commission a link to the Website.

Chair Tauber asked if there are plans to rename Sir Francis Drake Boulevard. Planning Director Toft stated the County is the lead on a committee that will evaluate this issue. They are gathering information.

PUBLIC HEARING ITEMS

- 1. TEXT AMEND #20-25; City of Larkspur, Applicant; Zoning Ordinance Amendments to Chapters 18.06 (Zoning Administrator) 18.34 (Slope and Hillside) 18.35 Residential Floor Area Ratios) and 18.64 (Design Review) of the Larkspur Municipal Code; Citywide. Public Hearing to consider amendments to the City's Zoning Ordinance intended to expand the range of projects reviewed by the Zoning Administrator, clarify current practices, improve readability, and amend the criteria for projects that are exempt, and projects that are subject to Design Review by the Zoning Administrator and Planning Commission.**

Senior Planner Teiche presented the staff report. She displayed the ordinance.

Commissioner Wagstaff asked if the allowable square footage for accessory structures was 200 square feet. Senior Planner Teiche stated "no". Two hundred square feet is a one-time exemption under the Floor Area Ratio Section if an FAR Exemption has never been approved for the property.

Under Design Review exemptions, the code allows detached accessory structures fifteen feet in height or less and not to exceed 400 square feet if it complies with zoning. Commissioner Kunstler stated he liked the new, simplified formatting (eliminating the subsections “A”, “B”, “C”, etc.)

Commissioner Chalmers stated she prefers using lettering or numbering as opposed to including the information in whole sentences. Planning Director Toft stated staff is fine with either formatting.

Senior Planner Teiche referred to the Zoning Administrator Powers and Duties Section and asked if there were any comments.

Commissioner Chalmers stated the word “chapter” should be changed to “section” throughout.

Commissioner Chalmers referred to Section 18.06.020 (K) suggested the following change: “Amendment of previously approved...to allow site grading of *twenty-five cubic (25) yards or less*, pursuant...”

Senior Planner Teiche referred to the Slope and Hillside Development Regulations Section and asked if there were any comments.

Commissioner Chalmers referred to Section 18.34.060, Slope Use Permit, (A) (4), and suggested the following change: “Site grading is proposed to a *lot or parcel*...”. She stated her interpretation of “property” is a building or land.

Commissioner Chalmers referred to Section 18.35.030, Residential Floor Area Ratios, (C) (3), and suggested the following change: “A new detached or attached accessory dwelling unit as *specifically described* in Section 18.23.060(e)...”. She stated they were talking about the very specific limited definition that has the square footage limitation in subsection (e) only. Planning Director Toft agreed. Commissioner Chalmers referred to the next paragraph and stated the reference to floor area being added to a “property” should be revised to say “structure”, or “building”, or “dwelling”. Commissioner Kunstler asked if this paragraph applied to units that might not be attached to an existing structure. Senior Planner Teiche stated “yes”. She recommended using the term “building” or “dwelling”.

Planning Director Toft asked about the concern with the use of the term “property”. Commissioner Chalmers stated the code does not include a definition for “property”. Planning Director Toft stated staff will look at this more closely

Commissioner Wagstaff supported the use of the term “property”. Commissioner Kunstler agreed. Commissioner Chalmers supported leaving it the way it is.

Commissioner Chalmers referred to the paragraph after Section 18.35.030, Residential Floor Area Ratios, (C) (3), and suggested the following change: “Any floor area...in subsection (C) (3) *of this section*....so that it no longer *complies with* the definition of an accessory dwelling unit *in subsection 18.23.020 and the Development Standards in 18.23.060*...” Senior Planner Teiche disagreed with the addition of the last part. Commissioner Chalmers stated the word “later” should be deleted from that second sentence of that paragraph. She referred to the last sentence in the paragraph and asked if they should put the onus on the property owner to make sure they are in compliance. She suggested the following change: “In the event that an accessory dwelling unit *no longer complies with the requirements set forth in 18.23.060, the property owner shall be subject to submittal of the required permits in 18.23.050*”. Senior Planner Teiche stated there may not be any required permits. They will have a Building Permit and it will comply with the Building Code but the question is whether it will meet setback, floor area, or lot coverage requirements. Some units will be built without exceeding those limits. Staff cannot demand compliance for a permit that might not be needed. Commissioner Chalmers stated they could add “if required” or leave it as is with no affirmative action required by the property owner. Commissioner Chalmers asked if a unit that

complies with Chapter 18.23.060 could later be modified (remove kitchen or access) or if the unit always has to be in compliance.

Commissioner Wagstaff stated he has had clients create an ADU just to gain more space. There is no obligation to rent it out.

Planning Director Toft stated that the code requires that once the exemptions are granted then the unit has to be maintained as an ADU. The property owner would need to get permits to change it (remove plumbing, etc.) Enforcement of the use as an ADU is very difficult. The unit should be available to rent or be used by family, friends, etc.

Commissioner Kunstler stated given the caveats noted by staff it might be better to leave the language as is. They might want to avoid “opening up a can of worms”.

Planning Director Toft referred to the last sentence in the paragraph after Section 18.35.030 (C) (3) and suggested changing the word “may” to “shall”. Senior Planner Teiche supported this along with the wording “as determined necessary”. Commissioner Chalmers stated her suggested language puts the onus on the property owner and puts them in default of this section.

Commissioner Kunstler referred to the last sentence in the paragraph and suggested the following change: “In the event...approval of *prescribed* after-the-fact permits...”. Senior Planner Teiche suggested the following: “In the event...after-the-fact permits, *as required*, to legalize...”

Commissioner Chalmers stated she would rather not make small tweaks and stated the sentence was fine as written. Planning Director Toft asked Commission Chalmers to repeat her changes. Commissioner Chalmers stated the sentence should read: “In the event an accessory dwelling unit no longer complies with the requirements set forth in Section 18.23.060, the property owner shall be subject to submittal of any required permits in Section 18.23.050”. Senior Planner Teiche stated she was not sure there should be a reference to Section 18.23.050. Commissioner Chalmers stated that reference could be deleted.

Commissioner Swisher suggested the following language: “In the event...the property owner may be required to obtain any necessary permits to legalize the previously exempted floor area”. This leaves it open to whatever permits may be necessary which will change over time.

Commissioner Kunstler stated he wanted to retain the wording at the end of the sentence “to legalize the previously exempted floor area”.

Planning Director Toft stated staff will review the language with the Town Attorney and come up with something that is not quite as passive. They want to keep it simple and not too explanatory.

Commissioner Chalmers referred to Chapter 18.64.020, Projects Subject to Design Review and Exemptions, and stated the term “discretionary permits” or “discretionary land use permit” should be used throughout. Planning Director Toft stated Section 18.64.020, (A) is the broad requirement and he asked if they need to repeat that these exemptions do not require a discretionary land use permit. Commissioner Chalmers stated it could be defined once and then referenced each time.

Commissioner Wagstaff referred to Section 18.64.020 (A) (3), Accessory Structures, and asked why (a) was eliminated and if they are going to 20 feet above grade. Senior Planner Teiche stated “no”. Height of an accessory structure is called out in the applicable zoning district regulations, for instance in the R-1 district it is 15 feet. A variance would be needed to exceed the height limit.

Commissioner Chalmers referred to Section 18.64.020, Accessory Structures, (2) and (3) and stated the language about applicable zoning standards should be consistent.

Commissioner Chalmers referred to Section 18.68.025, Review by Zoning Administrator, (A) (1), and suggested the following change: “Any additions, not to exceed three hundred (300) square feet in floor area, to an existing second floor...”. She referred to 18.68.025 (A) (6), and suggested the following: “Minor modifications and remodeling of existing commercial office or industrial buildings, including but not limited to exterior remodeling of an individual commercial storefront, when no addition is proposed”.

Planning Director Toft wondered if they need to call out the storefront since the trigger is exterior remodeling of existing commercial, office or industrial when no addition is proposed. Commissioner asked about a storefront where the second story was residential.

Commissioner Wagstaff noted many of the downtown buildings were historic. Planning Director Toft stated Section 18.68.025, Review by Zoning Administrator, (A) (9) allows for minor changes to those structures.

Senior Planner Teiche asked if the Commission wanted to modify Section 18.68.025 (A) (6). Commissioner Kunstler stated he would like to delete the word “commercial” in front of “storefront”. It is redundant. Senior Planner Teiche suggested the following: “Minor modifications of an individual storefront, commercial, office or industrial buildings, where no addition is proposed”. Commissioner Chalmers suggested the following: “Minor modifications to non-residential buildings including storefronts where no addition is proposed”. Commissioner Wagstaff noted most of those buildings have a residential component. Commissioner Kunstler suggested: “Minor modifications and remodeling of existing commercial, office or industrial buildings or spaces where no addition is proposed”. Commissioner Chalmers stated the term “building or portions thereof” was preferred. She suggested: “Minor modifications to commercial, office or industrial buildings or any portion thereof including but not limited to storefronts where no addition is proposed”.

Commissioner Kunstler referred to Section 18.68.025, Review by Zoning Administrator (A) (2), and noted a typo. Commissioner Chalmers asked about the words “attached additions”. Senior Planner Teiche stated an accessory structure, by definition, is detached. Commissioner Chalmers suggested the following: “Any attached additions to existing single-family or duplex residences which require a Floor Area Ratio Exemption Permit”...; and the addition of (2) (a): “Any accessory structures which require Floor Area Ratios...”. Senior Planner Teiche suggested moving the words “accessory structure” in front of “to existing”. Commissioner Kunstler suggested: “Accessory structures or attached additions to existing single-family or duplex residences which require a floor area...”.

Commissioner Chalmers referred to Section 18.68.025, Review by Zoning Administrator (A) (10) and suggested the following: “Any project...*as determined by the Planning Director* shall be heard...”. Senior Planner Teiche stated that changes what they are trying to say which is that the Planning Director can determine if a project is subject to Zoning Administrator review if it is not specifically listed in those sections. Planning Director Toft stated they could delete the words “shall be heard by the Zoning Administrator”. Commissioner Kunstler suggested: “Any project not...Section 18.68.025 *which the Planning Director has determined* shall be heard...”. Commissioner Chalmers agreed to this wording.

Commissioner Kunstler referred to Section 18.64.030, Review by the Planning Commission, (A) (1) and suggested deleting the reference to “reconstruction of existing structures”. Commissioner Chalmers suggested: “Any new or reconstructed dwellings which is two-story....”. Commissioner Wagstaff agreed the sentence could be improved.

Commissioner Chalmers referred to Section 18.64.030, Review by Planning Commission (A) (4), and suggested the following: “*Accessory structures or any* additions to existing...”. She would like

to use the same language that is used in (A) (1). She referred to Section 18.64.030 (A) (8) and suggested the following: "Any addition to... professional/ offices..."

Commissioner Chalmers asked if the first "Whereas" was necessary. Staff might want to keep it to give some historic perspective. Commissioner Kunstler agreed it was superfluous but he would like to keep it. Chair Tauber agreed.

Chair Tauber opened the Public Hearing.

There were no comments.

Chair Tauber closed the Public Hearing.

Chair Tauber asked if they could approve the draft tonight subject to the changes. Commissioners Wagstaff and Kunstler stated they should continue the item to the next meeting.

Planning Director Toft stated staff would make these changes and submit the revised draft to the Commission at the next meeting.

M/s, Kunstler/Wagstaff, motioned and the Commission voted 5-0 to continue this item to the September 22nd Commission meeting. It would ultimately go to the City Council for approval.

BUSINESS ITEMS

1. Approval of the August 25, 2020 draft meeting minutes

M/s, Kunstler/Swisher, motioned and the Commission voted 5-0 to approve the minutes from the meeting of August 25, 2020 meeting as submitted.

3. Planning Commissioners' Reports

Commissioner Wagstaff reported he might not be in attendance at the next meeting.

The meeting was adjourned at 8:55 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 October 13, 2020.



Neal Toft, Planning Director