

LARKSPUR PLANNING COMMISSION
REGULAR MEETING MINUTES OF MARCH 13, 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,
Laura Tauber, Ignatius Tsang,

Commissioners Absent: Todd Ziesing

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

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- The General Plan Update Steering Committee Kick-Off meeting was held on February 27th. The Committee reviewed the upcoming process, list of documents and reference materials, etc. The draft revisions and topic discussions will be provided on the General Plan Update Website. The Committee had a robust discussion about the Draft Land Use Element on March 6th. The next study session on optional elements is scheduled for next Tuesday, March 20th.

PUBLIC HEARING ITEMS

1. **DR/SUP/EXC/HTR #17-51: 75 Cedar Avenue (APN: 020-202-05); Taylor-Yang Architects, applicant; Ehren and Jennifer Halse, property owners; R-1 (Single Family Residential) Zoning District. Request for the following permit approvals to demolish an existing detached garage and construct additions to the existing residence, including an attached two-car garage and second story addition, as well as a single-story addition, totaling 1,997 square feet of new floor area on a 22,974 square foot property; 1) Design Review; 2) Slope Use Permit to permit 233 cubic yards of excavation and 88 cubic yards of fill on a lot with an average grade of 28%; 3) Exception Permit to allow modifications to an existing non-conforming residence; 4) Heritage Tree Removal Permit to allow removal of four (4) heritage-sized trees; a Plum tree and three (3) Bay trees. CEQA Categorical Exemption per section 15301(e) of the CEQA Guidelines: Existing Facilities**

Assistant Planner Armour presented the staff report.

Commissioner Kunstler asked if the 436 square foot addition (upper level above the garage), with some minor modifications, could be acceptable as a Junior Accessory Dwelling Unit. He noted it would not qualify as currently configured. Assistant Planner Armour stated "yes".

Commissioner Tsang asked if trees that were removed had to be replaced with trees, and not shrubs or other plantings. Assistant Planner Armour stated this is recommended, but not required, in the code.

Chair Deignan referred to the late mail that talks about parking issues on the street and he asked if residents should call the Police Department about illegally parked vehicles or if could be dealt with in the Construction Management Plan. Assistant Planner Armour stated the applicants have provided a preliminary Construction Management Plan that shows staging of trucks on the site. Chair

Deignan stated it should also include a statement that all vehicles shall be parking in a manner conforming to municipal codes.

Chair Deignan opened the Public Hearing.

Mr. Eهران Halse, property owner, made the following comments:

- He appreciated staff's professionalism and diligence.
- He realizes that the house is bigger than the others in the neighborhood.
- They are a growing family.
- He asked the Commission to approve the project.

Chair Deignan closed the Public Hearing.

Commissioner Tsang provided the following comments:

- The site plan shows that the master bedroom addition and living room/porch area is off of the neighbor's swimming pool. He is concerned about noise and privacy issues. Mr. Ehren stated he has had extensive discussions with both neighbors leading to their support.
- He asked the applicant what they would be doing for the neighbors in terms of the vitality of the neighborhood. Mr. Ehren stated they have talked to the neighbors about various mitigation measures during construction. They have a detailed Construction Management Plan. They are open to suggestions.
- He could approve the project.

Commissioner Kunstler provided the following comments:

- He referred to Page A33, proposed south elevation, which showed a fairly large amount of southern facing roof surface and asked if they plan to install solar panels. Mr. Ehren stated this is in their long-term plan.
- The project is much larger than the current structure. However, it blends into the natural setting much better.
- The second story addition above the garage could be reconfigured as a Junior Second Unit.
- He likes the design of the house.
- There is a large amount of cut and fill-the cut is mostly related to the driveway which would enhance the safety of the property and the neighborhood.
- He could approve the Heritage Tree Removal Permit- the trees are being removed to put in a emergency feature. Two of the trees are in poor health.
- He could approve the project.

Commissioner Tauber provided the following comments:

- She agreed with the comments made by Commissioner Kunstler.
- The size concerned her initially but this is a very large lot- they are not exceeding the FAR and there are other large homes on the ridgeline.
- She likes what they are doing- one bigger building instead of multiple buildings.
- She could make the Design Review Findings.
- She referred to the Slope Use Permit and stated most of the grading was for public safety.
- She stated she could approve the Heritage Tree Removal Permit and make the findings for the Exception Permit.

Chair Deignan provided the following comments:

- He agreed with the other Commissioners
- This is a sensible and restrained project. It is a large house that is tucked into the site and would not appear as a dramatic presence on the hillside. He could make the Design Review findings.
- The Exception Permit makes sense and does not exacerbate an existing situation.
- He could make the findings for the Slope Use Permit and Heritage Tree Permit.

M/s, Kunstler/Tsang, motioned and the Commission voted 4-0-1 (Ziesing absent) to approve DR/SUP/EXC/HTR #17-51, 75 Cedar Avenue, based on the findings and conditions set forth in the staff report.

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

- 2. DR/FAR/SUP/V/HT #17-27: 3 Shady Lane (APN 021-096-08); Mark Klein, applicant and property owner; R-1 (Single Family Residential) Zoning District. Request for the following permit approvals to allow the substantial demolition of the existing residence, demolition of the garage, and construction of a new two story single family residence and detached single car garage: 1) Design Review; 2) Floor Area Ratio Exception Permit to allow a new residence totaling 2,671 sq. ft. with a 0.31 FAR where the minimum 850 square foot residence and 400 square foot garage, or 0.05 FAR, are permitted due to the steep slope of the lot; 3) Slope Use Permit to permit 25 cubic yards on a lot of 47% average slope; 4) Variance on-site parking requirements to allow one on-site primary parking space (covered) and one guest space (tandem) where four on-site spaces are required; 5) Heritage Tree Removal Permit to allow the removal of two Coast Redwoods with a circumference of 6 feet 9 inches and 6 feet 4 inches to accommodate the proposed construction. CEQA Categorical Exemption per Section 15302 of the CEQA Guidelines; Replacement of Reconstruction**

Senior Planner Teiche presented the staff report.

Commissioner Tauber referred to the garage deck and the staff's concern about "clutter". Senior Planner Teiche stated the variety of the features and all the railings would add to the visual clutter of the design. Planning Director Toft stated there was a large continuum of railings that were shown as both horizontal and vertical, going from the house across the roof of the garage, which was very visible from the street cul-de-sack.

Commissioner Tauber referred to the geotechnical report and correspondence that stated that the area by the garage floods and asked staff if the plan addressed these issues. Senior Planner Teiche stated the plan would not stop the flooding. The site sits in the base of a ravine that is a major drainage way for the properties above it. They have proposed to put a reinforced concrete wall at the back of the garage to protect it. Planning Director Toft noted it was reducing the size from previous garage, moving it further away from the drainage way. He noted that it was not a habitable living area.

Commissioner Kunstler noted there were discrepancies in the size of the project. Senior Planner Teiche referred to the Development Review Checklist.

Commissioner Kunstler stated it was unusual not to have the design palette and he asked if the Commission should look at the application as not complete. Senior Planner Teiche stated the applicant should indicate if they plan to change the materials identified in the plans.

Commissioner Tsang asked if the proposed parking would be adequate- it was hard to find parking off-site. He asked if there were other ways to add parking on-site. Senior Planner Teiche stated they could excavate into the hillside near the stairway, or remove trees to expand the driveway, but that did not seem like an appropriate solution.

Chair Deignan opened the Public Hearing.

Mr. Mark Klein, property owner, made the following comments:

- The staff report recommends a continuance so that certain changes could be addressed- he agreed with that recommendation.

- They tried to be open to community engagement. They sent plans to everyone within 300 feet.
- There are a lot of considerations in developing this site.
- The two concerns are the owls and the trees.
- He is proposing to modify the design so it does not include a request to remove the two Heritage trees.
- He also proposed to voluntarily hold off on starting construction until the end of the nesting season.
- They tried to be efficient with the footprint.
- They understand the preference to minimize height and step the building down the hill but there is a row of trees preventing this. This is the rationale for stacking the floor plan.
- Building on the south side as proposed would minimize the visual impacts.
- They changed the material for the driveway from pavers to gravel.
- They changed the two-car garage to a one-car garage.
- They hope to have a rain-water catchment system.
- They plan to use a pier and bridge foundation system for the house and the garage to further reduce impacts on tree roots.

Ms. Barbara Salzman, representing the Marin Audubon Society, made the following comments:

- The Audubon Society is involved in current lawsuits, one with the County and a second with the Marin Conservation League and Native Plant Society regarding Spotted Owls.
- She was surprised the staff report did not discuss the Spotted Owls in this area.
- There are three nest sited in Larkspur that are monitored.
- The pair using this nest represents one of the more successful pairs of owls in the area.
- She is pleased that the applicant is now proposing to retain the trees. However, this is not the only concern. The expanded home intrudes into foraging habitat for the owls, who hunt woodrats. The possible existence of wood rat nests should be looked into. The large glass windows are also a concern, as birds can fly into the windows and die. Even if the construction is timed to avoid the nesting season, it's a question if the house could be built before the next nesting season starts.
- She believes the house is too large for the site.
- This project does not qualify as a categorical exemption per Section 15300.2 because there is a threatened species in close proximity to the project site, which creates an unusual circumstance.
- She urges the Planning Commission to require an Initial Study and resolve the issues through the CEQA process.

Chair Deignan stated single-family homes were typically categorically exempt from CEQA and he asked if the presence of the owls would change that. Senior Planner Teiche stated they need to look at this from a bigger context- this is a developed neighborhood and this is a developed site. It is the common practice to apply the standard categorical exemption.

Planning Director Toft acknowledged there were exceptions to the CEQA exemptions and the Commission could take into consideration the new information provided and require an Initial Study.

Chair Deignan asked staff if they feel comfortable saying they do not need an Initial Study.

Planning Director Toft stated the City is aware there are nesting sites in the vicinity of the Madrone Canyon and Murray Park neighborhoods. Critical habitat can be considered to extend to a half mile from a nesting site which would include much of the City. Generally, residential projects a given a low bar for meeting the standard exemption within the existing developed neighborhoods. Staff is reluctant to apply a higher standard of environmental review in these circumstances and, in some cases, imposed conditions of approval to require the area be surveyed for nesting sites, particularly when redwood trees will be impacted. Typically surveys found other projects to be far enough away from any nesting sites to allow them move forward without construction limits.

There are exceptions to the categorical exemptions as pointed out by Ms. Salzman. In this case, with the home being on the periphery, close to open space, and in a large wooded ravine, there is an argument to be made for further investigation. He noted that the City has not completed a survey at this time. The Commission can make a determination that the project is not exempt from CEQA as the City remains within the 30-day window to complete the CEQA determination. He encouraged the Commission to first consider if the proposed design could be approved, as there is no need for further environmental review if the design is not acceptable.

Chair Deignan asked if the City would be comfortable making a determination that an Initial Study is not required and the project is exempt, or, based on the new information provided, should there be additional research.

Director Toft stated that, due to the circumstances of the site and proximity of a nesting site, an argument could be made for further environmental review.

Senior Planner Teiche also suggested that the Commission may determine that the issue could be addressed through Conditions of Approval

Mr. Richard Cunningham, West Baltimore, made the following comments:

- There are nesting owls in the area. This could be addressed with permit conditions and extraordinary project oversight.
- Standing at the bottom of Shady Lane, he has seen at least three 100-year floods.
- An alternative to the large concrete wall at the back of the garage would be to build the garage of rattan (not resist the flow).
- He would like to see additional changes to the design including removal of the request to remove trees, changing the footprint, and reducing the size of the garage.

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

- He passed out a 2000 real estate flyer with a description of the house.
- He would like to keep the project more like an "Alpine retreat" through the Design Review process as described in the flyer.
- He has a concern with the review by the City's historical consultant and pointed out some of the inadequacies.
- The house should have received 40 points, giving it a high "C" which are properties that have value as part of Larkspur's character- preservation should be encouraged.
- This is a very visible site at the entry to the Baltimore trail. Design considerations are significant.
- Mass reducing techniques are not used to a great degree. He suggested: 1) Elimination of the entrance tower; 2) The front of the roof should be changed to a gable roof and made more level; 3) The roof is an unusual configuration (jutting up and down) that is not consistent; 4) Custom railings would enhance the design.
- There should be additional historical and environmental review.

Senior Planner Teiche clarified that the subject building had been evaluated by consulting historic architects, Dan Peterson and Jerri Holan. Neither found that the building had sufficient architectural significance to elevate it to the Historic Inventory. Although this structure was rated as a C, only building that reached an A or B rating (50 points or more) have been added to the inventory.

Ms. Alyssa Wine made the following comments:

- Preservation of the owls is very important. They are legally protected.
- There should be conditions on the months of construction, noise levels, etc.

Ms. Margie Peterson, Shady Lane, made the following comments:

- She looks forward to a new home on the property.

- The owner of 4 Shady Lane is concerned about encroachment onto her property, and the size and placement of the garage.
- She asked if the “stake” was an indication of the lot line. Mr. Klein stated that was an old one.

Ms. Elise Omernick, Piedmont Road, made the following comment:

- She discussed the importance of the owls- they are an endangered treasure.

Ms. Barbara Freitas, Lark Court, made the following comments:

- She thinks the Migratory Bird Act would prevent the trees being removed.
- She does not see anything in the code that refers to nesting seasons.
- Larkspur should adopt stringent regulations regarding when trees can be pruned and removed.
- She asked about the months of construction. She was concerned that the owls would be disturbed.
- She was concerned about building under the drip line of Redwood trees.

Mr. John Ambert, architect, made the following comments:

- They want to make progress on the design and push the project forward.
- They plan to install a Hardiboard siding of similar color (brown or bark) to mimic the existing building.
- The roof will be a standing-seam metal (Class A fire resistant).
- The intent is to go with a horizontal handrail to reduce visual clutter.
- He appreciated the comments about the garage and they will consider modifying the garage and façade to give it more shape and character.
- They are trying to limit the development footprint as much as possible.
- This is a low-impact development project- the intent is not to build large.
- The intent is to mimic the existing roofline- one large roof across the entire building would have been tricky. They want to tie into the existing structures with tresses.

Mr. Ben Anderson, Urban Forestry Associates, made the following comments:

- He discussed the proximity of the trees to the project and different approaches to allow for future tree growth.
- He discussed the pier and grade beam foundations and stated everything, with the exception of the piers, would be floating above the root systems.
- The proximity to a building is a tough issue. A new owner may have different views on what is safe. As Redwoods grow, the bigger they get, their radial growth is smaller each year. Two feet of clearance from the building would require four feet of diameter expansion, before the trunk touches the building.
- His assessment is focused on whether the trees can survive the impacts of the current proposal.

Ms. Saltzman made the following comments:

- The environmental issues should be dealt with through an Initial Study and not conditions.
- An Initial Study would include an independent biologist’s recommended conditions.
- The nesting time for the owls is February 1st through July 31st.

Chair Deignan closed the Public Hearing.

Commissioner Kunstler provided the following comments:

- He could make the findings for the Variance for the parking and the Slope Use Permit.
- The site could tolerate the proposed amount of grading.
- The proposed overall dimensions would not over-build the lot. The overall square footage was reasonably moderate.
- He is troubled by the thought of removing healthy Redwood trees.

- He referred to the design and stated he was troubled by the roofline- it does not fit in with the natural setting. He suggested a fairly radical modification.
- He referred to the issue of the owls and noted they were an endangered species and their jeopardy is not permitted by law.
- Mitigation measures need to be studied.
- He supported a continuance.

Commissioner Tauber provided the following comments:

- She referred to Design Review and stated the design is creative in terms of what they are trying to do without expanding the footprint.
- The design seems "high" but it made sense given the tall trees.
- The point is well made about the garage and she asked them to rethink this element.
- She could support the Floor Area Ratio Exception- it is in the middle range of the neighborhood.
- The remaining issues are the trees and the owls- this needs to be addressed.
- She supported a continuance.

Commissioner Tsang provided the following comments:

- He is glad the applicants have decided to save the trees.
- The context of the site is the trees, and not the neighbors.
- The house could be in four parts, like trees coming out of the ground. The windows should catch the north and south light.
- They should design a unique yet amazingly contextual project.
- He is disturbed by the horizontal aspect of the project (railings, etc.)
- He suggested putting the stairs next to the garage and extending it for storage.
- He suggested a fake shed roof on the front of the garage.
- The owls should not be disturbed.
- Modular construction would expedite the construction time.
- He does not like the exterior- it is all over the place. The verticality should be accentuated.

Chair Deignan provided the following comments:

- He could make the findings for the Parking Variance and the Slope Use Permit.
- He referred to the Floor Area Ratio (FAR) and stated he had trouble making the findings for a 0.31 FAR on a lot this size. This is a very steep lot in a wooded area.
- He referred to Design Review and stated this design needs more mass reducing techniques.
- The prominence of the house would be seen below the trees.
- The trees need to be protected and as many as possible need to be preserved.
- The owl issue needs to be addressed- it cannot be ignored.
- He expressed skepticism that prefabricated sections of the home could be brought in to this location.
- He supported a continuance.

Planning Director requested the Commission confirm the applicant is agreeable with a continuance to a date uncertain and the applicant agreed.

M/s, Tauber/Kunstler, motioned and the Commission voted 4-0-1 (Ziesing absent) to continue DR/FAR/SUP/V/HT #17-27, 3 Shady Lane, to a date uncertain.

BUSINESS ITEMS

1. Commissioners Reports

Commissioner Kunstler stated the General Plan Update Committee meeting went well. The format is focused and productive and the Committee got a lot accomplished in a reasonable amount of time.

2. Approval of minutes of Planning Commission meeting on February 13, 2018

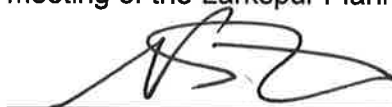
M/s, Tsang/Tauber, motioned and the Commission voted 4-0-1 (Ziesing absent) to approve the minutes from the February 13, 2018 meeting as submitted.

The meeting was adjourned at 9:32 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.



Neal Toft, Planning Director