

LARKSPUR PLANNING COMMISSION MEETING  
MINUTES OF APRIL 27, 2004

The Larkspur Planning Commission was convened at 7:31 p.m. in the Council Chambers by Acting Chair Heitkamp.

Commissioners Present: Acting Chair Helen Heitkamp, Commissioners Monte Deignan, Chris McCluney, Jeff Stahl

Commissioners Absent: Chair David Ratner

Staff Present: Nancy Kaufman, Planning Director  
Neal Toft, Associate Planner  
Kristen Teiche, City Planner

**OPEN TIME FOR PUBLIC EXPRESSION**

There were no comments.

**PLANNING DIRECTOR'S REPORT**

- ?? The General Plan Amendment and the Floor Area Ratio Exception ordinance considered at the last Commission meeting will be heard by the City Council on May 5<sup>th</sup>. The Council will also hear a status report on the moratorium.
- ?? Staff received a letter from the State Housing and Community Development Department regarding the Housing Element. She will submit the letter to the Commission as soon as possible.

**APPROVAL OF CONSENT CALENDAR ITEMS**

**PUBLIC HEARING ITEMS**

1. **VAR 04-26: 19 Bond Street (AP #20-213-02); Steve McArthur, applicant, Kenny & Natascha Mesker, property owners. Request for a Variance to the 15-foot height limit for accessory structures to allow the replacement of a flat roof of an existing 2-car garage with a new gable roof. The height of the structure is currently nonconforming at a height of 16 feet 9 inches. The project will increase the height of the structure by 4 feet 6 inches to a new height of 21 feet 3 inches.  
Staff Recommendation: Conditional approval**

Acting Chair Heitkamp asked the applicant if he had any problems with the staff report. He stated "no".

On the Consent Calendar, M/s, Stahl/McCluney motioned and the Commission voted 4-0 (Ratner absent) to approve VAR 04-26, based on the findings and conditions set forth in the staff report.

Acting Chair Heitkamp stated there was a 15-day appeal period.

**PUBLIC HEARING ITEMS**

2. **RZ 03-81: 771 and 801 Magnolia Avenue (AP #20-201-01 & 20-160-05); City of Larkspur, applicant. Rezoning of the Escalle Winery Property to add the Combining Heritage Preservation District (H) Overlay zone to the existing RMP, Residential Master Plan, zoning. The intent of the H Overlay District is to promote the preservation of the structures on the site that have been**

**identified as a historic resource in the City of Larkspur. The existing RMP zoning designation and all uses permitted in this district will remain unchanged and in full force and effect. Pursuant to the requirements of the California Environmental Quality Act, an Initial Study and Draft Negative Declaration have been prepared for the proposed rezoning described above.**

City Planner Teiche presented the staff report. Planning Director Kaufman stated the Commission should have received a copy of a letter from the property owner's attorney and copies of correspondence between staff and the property owner's attorney.

Acting Chair Heitkamp recalled several instances where lot splits or lot line adjustments had been done in the past and there were problems down the line. She asked if any potential future problems regarding drainage were addressed when the boundaries were plotted. Planning Director Kaufman stated this was an overlay that simply implemented review and does not have standards for development. Acting Chair Heitkamp stated this was a somewhat tricky site with a number of swales and drainage problems. Planning Director Kaufman stated the entire site was zoned Residential Master Plan and those issues would have to be addressed as part of any Master Plan for the site. This overlay requires that the Historic Preservation Board review any development proposals for the site and protects the historic resources in terms of what is built around them and how they may blend together.

Commission McCluney had clarification questions about Exhibit A-2.

Acting Chair Heitkamp opened the Public Hearing.

Ms. Mary Tiscornia, property owner, made the following comments:

- ?? She has not made plans for the property and acknowledged it does have a lot of problems.
- ?? She has an interest in preserving the historic element of the property.
- ?? There should be a plan in place that incorporates the historic buildings.
- ?? She would prefer that the overlay not take in such a large area.
- ?? There could be unforeseen ramifications.
- ?? She was willing to cooperate but did not want her options reduced to nil.

Mr. Douglas Ferguson, attorney for the property owner, made the following comments;

- ?? He discussed the various conversations and correspondences that have taken place with the planning staff.
- ?? His client is supportive of the concept.
- ?? He would like the Commission and staff to visit the site prior to making a decision.
- ?? The issue was the appropriate preservation of the buildings.

Ms. Nancy Curley, Corte del Bayo, member of the Heritage Preservation Board, made the following comments:

- ?? This issue is a defining moment for the City of Larkspur.
- ?? She acknowledged there were differences of opinions and different ways to look at this issue.
- ?? This property is certainly worthy of this overlay district.
- ?? The buildings remain in a relatively unchanged condition.
- ?? A buffer area is necessary and each building is a part of the whole and speaks to its historic use. Each piece must be kept to maintain the integrity of the site.
- ?? She urged the Commission to work with the property owners to come up with creative ways to preserve these buildings and to meet the property owners needs as well.

Ms. Mary Tiscornia, property owner, made the following comments:

- ?? She asked everyone to remember that maintenance of the buildings and the property is a huge burden and responsibility that would require resources.
- ?? She asked the City to be practical in their consideration of this issue.
- ?? There should be a plan for the property. The proposed rezoning was premature.

Acting Chair Heitkamp stated there are funds available for properties designated on the National Trust Registry. Building Codes that do not pertain to health, safety and welfare can sometimes be modified.

Ms. Marilyn River, Pepper Avenue, member of the Historic Preservation Board, made the following comments:

- ?? She agreed with the comments made by Ms. Curley.
- ?? The overlay will allow for another level of review by the Heritage Preservation Board. It will not impinge on the rights of the property owner to develop the property.
- ?? Future plans would not be compromised.

Acting Chair Heitkamp closed the Public Hearing.

Planning Director Kaufman stated staff had met with property owner and her attorney. To assist with the property owner's request to apply the Overlay to only a portion of the property, staff requested from the property owner a lot line adjustment application with proper legal descriptions. When the lot line adjustment application was not forthcoming, she did the initial drafting of the boundaries with some assistance from the City Engineer. The City does not have the funds to have a survey prepared. Everyone agrees the overlay does not need to include the entire site. She asked the Commission to refer to Chapter 18.19, Section 18.19.040, Action by Heritage Preservation Committee, of the Zoning Ordinance. This review by the Heritage Preservation Board is the essence of the overlay. There are no onerous standards and the Overlay simply gives the Board the opportunity to provide their perspective and expertise on any proposed developments for the site.

Commissioner McCluney asked whether the Overlay would incur any financial burden on the property owner or would obligate her to keep things looking a certain way. Planning Director Kaufman stated that with the review by the Heritage Board, demolition or grading permits may take extra time but that there was no additional financial burden caused by the Overlay nor would it obligate the property owner to maintain the property. Commissioner McCluney asked about the change in the small boundary in Attachment #3 to the larger one in Attachment #4. Planning Director Kaufman referred to Exhibit A and stated the rezoning is more than just lines drawn on a map and staff drafted a legal description based on available boundaries. Staff had asked the property owners for a legal description and the property owners asked the City to pay for it. It is not unusual for a City to apply an Overlay to the entire parcel. Commissioner McCluney asked about the applicant's request for a smaller boundary. City Planner Teiche stated the buildings were located on two separate properties of record. The easiest way to define the smaller area would be through a lot line adjustment. Defining a piece of two different properties was more complicated.

Acting Chair Heitkamp asked the Commission if they agreed with the concept of the Overlay designation. There was a consensus that the Overlay designation should be applied to this property.

Acting Chair Heitkamp provided the following comments:

- ?? Everything seemed a bit vague and the proposal for an on-site analysis was a good one.
- ?? She was unsure about the access points. The topography was difficult.

Commissioner Stahl provided the following comments:

- ?? The General Plan encourages the preservation of historic resources.
- ?? Walking the site makes sense.
- ?? His initial reaction to Attachment #3 was that the boundaries were too limited.
- ?? A boundary exists that will strike a balance between a reasonable buffer zone for the buildings yet provide the property owner some latitude.

Commissioner McCluney provided the following comments:

- ?? He agreed with the comments made by the other Commissioners.
- ?? He would like to set some kind of time frame for this to happen. He would like to move on this.
- ?? He would like to look at the site more closely.
- ?? He asked why the City would not pay for the survey since it was the “applicant”.
- ?? He understood the trepidation on the part of the property owner and stated it should be taken into consideration.

Commissioner Deignan provided the following comments:

- ?? He agreed that this property was worthy of this designation.
- ?? The overlay would simply add another layer of review and would not impose any financial burden on the property owner.
- ?? A site visit was a good way to move forward.

Planning Director Kaufman stated that the City is the applicant and the proposal was initially to place the Overlay on the entire property. The General Plan refers to the application of the Overlay to the Escalle Winery. Given that the site once included vineyards as well as the remaining buildings, it could be argued that it is appropriate to include the entire property. It was at the request of the property owner that a smaller area was being considered; therefore, staff asked the property owner to provide the boundary information. She stated the Commission could walk the site but it would not help in terms of providing the legal boundary description. Concerns regarding how future access proposals and drainage constraints will impact the site are arguments to include the entire parcel. The Planning Staff currently has a very heavy workload and this Overlay may not proceed forward in a timely manner if more research is required. City Planner Teich reiterated that applying the Overlay does not limit the development potential; the intent is to ensure the preservation of the historic buildings. The location of the boundary line is not that critical. What is important is that it covers the buildings and surrounding lands to ensure oversight of future development to ensure it is compatible with the historic nature of the site. Planning Director Kaufman referred to Exhibit A-2 and suggested they reduce by half the 760-foot long line on the southwest side along Bon Air. Acting Chair Heitkamp stated that section was a very steep hill and they really need to walk the site to get an idea of the relationship of the site to the buildings.

Ms. Mary Tiscorni stated she would be happy to meet with the Commission and show them around, but she asked that only two Commissioners come to the site at the same time.

M/s, Deignan/McCluney motioned and the Commission voted 4-0 (Ratner absent) to continue RZ 03-81 to the June 8<sup>th</sup> Commission meeting to allow the Commission the opportunity to perform a site visit, two members at a time, to consider reasonable boundaries.

- 3. FAR 04-21: 19 Baltimore Avenue (AP #21-182-12); Stephen Rynerson, applicant; Patrick & Lynwen Brennan, property owners. Request for a Floor Area Ratio (FAR) exception, per LMC Section 18.35, to construct a second level addition of approximately 530 square feet of floor area, resulting in a .44 FAR where a .40 FAR is the maximum permitted.**

Assistant Planner Toft presented the staff report.

Acting Chair Heitkamp asked if the property currently meets the parking requirements. Associate Planner Toft stated “no”. The parking requirements are two primary and two guest spaces. Commissioner McCluney asked if a car could park in the driveway if they moved the gate back. Associate Planner Toft stated if the gate were moved back four feet it would give them the distance required under the Zoning Ordinance for two parking spaces.

Acting Chair Heitkamp stated this lot and the two adjoining lots were the smallest in the Baltimore Park area. It was comparing “apples to oranges” in terms of the FAR. Assistant Planner Toft stated staff was trying to stress that this was one of the smaller lots and the proposal would exceed the FAR in the neighborhood. The character and scale of the neighborhood in general should be considered.

Acting Chair Heitkamp opened the Public Hearing.

Mr. Stephen Rynerson, architect, made the following comments:

- ?? His firm specializes on working on older homes. They help homeowners make sensitive additions.
- ?? The spiral stairs, roof deck, and cottage are existing.
- ?? They worked very hard on the massing and came up with several iterations.
- ?? The narrow part of the addition is presented to the neighbors by virtue of going all the way across the house and having limited floor area.
- ?? Baltimore Avenue is a very wide street and that is why the widest part of the addition fronts onto Baltimore.
- ?? The proposal would remain below the average square footage of the neighborhood.
- ?? There are limited to what they can do in terms of the massing.
- ?? They met with the neighbors and were willing to make the following compromises: 1) reduce the size of the pergola (trellis structure), 2) raise the sills of the windows facing 40 Monte Vista, 3) install frosted glass in the bathroom windows on the side facing the immediate neighbors.
- ?? It would be difficult to pull in the two walls from the sides in terms of the structural design.

Ms. Lynwen Brennan, property owner, made the following comments:

- ?? They are not trying to build a big mansion. They want to start a family and need more space.
- ?? The previously approved plans were for a bigger house.
- ?? They were trying to be mindful of the neighbors and decided to put the addition in the front of the house.
- ?? They were prepared to compromise on the trellis.
- ?? They can currently park two cars in the driveway, but they were willing to move the gate back.

Ms. Alice Cravens, Monte Vista Avenue, made the following comments:

- ?? Her home was one of the original homes in Baltimore Park.
- ?? She was concerned about the impact on her solar access and privacy since the homes were very close together (less than 10 feet apart at the back).
- ?? She distributed photographs to the Commission showing the story poles. Commissioner McCluney had questions about the photographs.
- ?? She stated there were four agreed upon changes: 1) removal of the trellis, 2) change the upstairs windows, 3) the top of the roof will follow the gable down instead of continuing on at a 24'8" height, and 4) the eaves would extend to a maximum of 30".

Mr. Jim Grossman, Baltimore Avenue, made the following comments:

- ?? He distributed photographs to the Commission.
- ?? The City allowed the current house to be built over the driveway knowing that the garage had been converted to living space. It made no sense to allow a second story.
- ?? He was very disturbed by the plans.
- ?? The proposal would block his views, reduce sunlight, increase the noise level, and allow direct views into their house.
- ?? This was a nice proposal but it did not fit into this location.

Mr. Patrick Brennan made the following comments:

- ?? The changes in the trellis and roofline will minimize the impact to Mr. Grossman's property.

Mr. Joel Erin, Monte Vista Avenue, made the following comments:

- ?? There are homes in the area that are quite massive.
- ?? There was a lot of thought put into this proposal and it was perfect for the neighborhood.

Ms. Lynwen Brennan made the following comments:

- ?? She submitted a letter of support from the neighbors.
- ?? The cottage was not usable as living space.

Acting Chair Heitkamp closed the Public Hearing.

Commissioner Deignan provided the following comments:

- ?? It was a pleasant looking addition.
- ?? He agreed with the staff comments regarding the exacerbation of existing nonconforming issues.
- ?? There were too many outstanding issues and the neighbor's concerns should be resolved.
- ?? The agreed upon changes need to be incorporated into the plans for the Commission to review.

Commissioner McCluney provided the following comments:

- ?? The addition fits the house and is a complimentary style.
- ?? He was concerned about the mass and size of the proposal for the site and felt it was too much for the property. He would like to see something smaller.
- ?? They seem to be willing to work with the neighbors to resolve any concerns.
- ?? He liked the changes to the trellis.
- ?? They are on the right track.

Commissioner Stahl provided the following comments:

- ?? He agreed with the comments made by the other Commissioners.
- ?? There is an attempt to make a sensitive addition that will fit into the neighborhood.
- ?? This second story would seem big on this very small lot that is so close to the adjacent homes. He was concerned about the privacy and solar access issues.
- ?? There were other factors aside from the visual issue of the size of the second story. The garage has been converted to living space and the roof deck will be used as living space. He was concerned about the intensity of use on the property and stated it was tripping the limits in a number of ways.
- ?? The proposal should be scaled down and the bulk of the second story should be reduced.
- ?? Moving the gate back would be appropriate.
- ?? They should resubmit plans depicting the agreed upon changes with the neighbors.

Acting Chair Heitkamp provided the following comments:

?? She agreed with the comments made.

?? She pointed out that the backyard of 40 Monte Vista faces their sideyard and felt this creates a design problem.

?? The bulk of the second story should be reduced. There was too much for the site.

?? Designing the mass so it faces the street works in one way but also creates a wall for the abutting property.

?? She appreciated the cooperation of the neighbors.

Planning Director Kaufman suggested the Commission deny the application without prejudice as opposed to granting a continuance. Commissioner McCluney asked for the rationale. Planning Director Kaufman stated she was concerned about the Permit Streamlining Act and it was a simpler way to do it when there were a number of changes required to a design. Commissioner McCluney was concerned about any additional costs. Planning Director Kaufman stated the cost, excepting for the noticing cost, would be the same since staff charges by the hour.

M/s, Deignan/Stahl motioned and the Commission voted 4-0 (Ratner absent) to deny without prejudice FAR 04-21 based on the staff report and the comments made by the Commission and the public.

Acting Chair Heitkamp stated there was a 15-day appeal period.

**4. TEXT 04-30: (Slope and Hillside Development Regulations); Citywide; City of Larkspur, applicant. Consider an amendment to Larkspur Municipal Code Chapter 18.34, Slope and Hillside Development Regulations, to clarify existing ambiguities related to substandard size lots of record and to make other minor edits to the text.**

Planning Director Kaufman presented the staff report.

Acting Chair Heitkamp stated the intent was to differentiate between legally created lots that are below the standards and future ones that may be created by lot lines or subdivisions. She referred to Chapter 18.34, Section 18.34.010, E, and suggested the following words be added: "To achieve land use densities (*except for legally created lots*) and lot sizes..." . Planning Director Kaufman suggested the following wording: "However, in order to retain..... as the slope of the terrain increases *in the terms of creating new lots to subdivisions, lot line adjustments, and multifamily developments.*" Acting Chair Heitkamp stated the confusion comes from separating subdivisions, lot line adjustments, and multifamily developments from the legally created lots the City is allowing to be substandard.

Commissioner McCluney referred to page 4 of the staff report and asked why they need a new definition of "lot of record". Planning Director Kaufman stated under the Subdivision Map Act an individual can request a certificate of compliance for an existing lot and if the lot were created legally, regardless of size or adjacent ownership, a certificate of compliance must be issued, essentially determining it to be a "lot of record."

Associate Planner Toft stated the Zoning Ordinance was revised in 1962 to establish the base definition of the R-1 Zone where you need a lot of 7,500 square feet. Anything less than that, it is legal to build a single family as long as it was a lot of record. A lot of record was defined in 1962 as meeting certain standards. Zoning lot sizes were first established in 1948. One could divide a larger lot, regardless of the terrain, into lots of 7,500 square feet. It also recognized lots of record and defined them as those lots that are less than 7,500 that were legally created and under one ownership. In 1973 the Slope and Hillside Ordinance was created that said you need larger lots on steeper hillsides. The lot of record definition became inapplicable. You could have a 20,000 square foot

lot, on a very steep slope, that could not be divided into two but could have a single family home built. It could not be called a lot of record, under the current definition, because that is defined as a lot less than 7,500 square feet. The language was not properly revised to accommodate the Slope and Hillside Ordinance in terms of recognizing existing lots as buildable. Planning Director Kaufman stated the term “lot of record” needs to be redefined with the assistance of the City Attorney. She noted for the record that just because a lot may be determined to be legally created does not grant any rights to building since all municipal code requirements must be met.

Acting Chair Heitkamp opened the Public Hearing.

Mr. Ed Blankenship, Magnolia Avenue, made the following comments:

?? The issue of merging lots was still unclear.

Planning Director Kaufman stated this issue and how to properly address it should needs to be reviewed by the City Attorney. Assistant Planner Toft stated that merging lots should be recognized as generally improving a nonconforming situation.

Acting Chair Heitkamp closed the Public Hearing.

Commissioner Stahl provided the following comments:

?? He was having a hard time visualizing the consequences.

?? He would like to go back to narrowly addressing the issue of “lot of record” as much as possible so they do not “upset the apple cart”.

?? He referred to Section 18.34.010, E, and stated the inserted language should be deleted because it narrows the applicability of the standard. He suggested adding the following language: “To achieve *appropriate* land use densities *on sloping hillside sites* that are in keeping with the General Plan.” Planning Director Kaufman stated this could be interpreted as applying to all parcels, existing or otherwise which is the ambiguity that we are trying to correct.

Acting Chair Heitkamp provided the following comments:

?? This comes down to two issues. Subdivisions and lot line adjustments (the bigger parcels) are one issue. The other is the legally created, smaller, individual lots.

?? There should be a nexus between Section 18.34.010, E, and floor area ratio.

Planning Director Kaufman referred to Section 18.34.010, E, and stated staff was trying to make it clear that densities and lot sizes, in this section, are referring to subdivisions, lot line adjustments, and multi-unit developments. If you take out the reference to these items then it is ambiguous. Acting Chair Heitkamp stated this section would be fine the way it is written by staff if they could add something that acknowledged legally created lots. Planning Director Kaufman stated this is addressed throughout the ordinance by clarifying what the densities and lot sizes apply to. Associate Planner Toft stated they were not trying to address the negative.

Commissioner Deignan provided the following comments:

?? He agreed with Acting Chair Heitkamp that Section 18.34.010, E, should make a reference to the fact that it does not apply to legally created lots or lots of record.

Acting Chair Heitkamp provided the following comments:

?? She referred to Section 18.34.020, E, and asked about the inclusion of decks.

Planning Director Kaufman stated this has not changed and was part of the Omnibus Ordinance.

Commissioner McCluney provided the following comments:

?? He stated there was no reference to FAR. Planning Director Kaufman stated this Chapter does not address FAR. Commissioner McCluney stated it was a concern to everyone and it should at least be included in the ordinance.

Planning Director Kaufman referred to page 2 of the ordinance, the first sentence of the first paragraph, and suggested the following amendment: “Therefore, it is the intent of the City to place land, .....required for flat land development (*see also Floor Area Section*).....”; and under Section 18.34.010, E; “To achieve *in hill areas* land use densities and lot sizes... that are in keeping with the General Plan and to retain significant natural features of the hill *areas by diminishing densities as the slope of the terrain increases (note: not intended to apply to existing legally created single family lots)*. It was the consensus of the Commission to accept this language, but to continue the item to allow review the Assistant City Attorney to review the proposed revisions.

M/s, Deignan/Stahl motioned and the Commission voted 4-0 (Ratner absent) to continue TEXT 04-30 to the May 25<sup>th</sup> Commission meeting to review revisions made by staff and have the Assistant City Attorney review the revisions.

## **BUSINESS ITEMS**

1. Commissioner’s Reports  
There were none.

2. Planning Commission Minutes of April 13, 2004.  
M/s, Stahl/McCluney motioned and the Commission voted 4-0 (Ratner absent) to approve the minutes of April 13, 2004 as submitted.

The meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Toni DeFrancis  
Recording Secretary