

LARKSPUR PLANNING COMMISSION MEETING  
MINUTES OF AUGUST 10, 2004

The Larkspur Planning Commission was convened at 7:30 p.m. in the Council Chambers by Acting Chair Heitkamp.

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

Staff Present: Nancy Kaufman, Planning Director  
Neal Toft, Associate Planner  
Karl Guiler, Assistant Planner

### OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

### PLANNING DIRECTOR'S REPORT

- She announced that the City had received a letter from the State Department of Housing and Community Development stating that the City's Draft Housing Element is consistent with State Housing Law. She noted that the Element still needed to go through public hearings before the Planning Commission and City Council and asked that, at the end of tonight's meeting, the Commission pick a date for a special meeting to hold a public hearing on the Element and associated implementing ordinances and resolutions.
- She reported that, at their August 18 meeting, the City Council would be holding public hearings on the Escalle Winery "H" Overlay rezoning and the proposal to change how building height is measured.
- She reported that the Department had ordered a copy of the Planning Commissioner's Handbook from the League of California Cities.

### APPROVAL OF CONSENT CALENDAR ITEMS

1. **DR/FAR/VAR 03-105: 50 Orange Avenue (AP #21-072-08); Eric Layton, applicant; Pat & Barbara Notley, property owners. Request for the following permits to allow additions to an existing nonconforming single-family dwelling: (1) Design Review; (2) Floor Area Ratio Exception to allow a FAR of 0.41 (2,603 sq. ft.) where only a 0.385 FAR (2,462.5 sq. ft.) is permitted by code; and (3) Variance to reduce the required 5-foot side yard setback on the north side property line to 4-feet.**

On the Consent Calendar, M/s, McCluney/Stahl motioned and the Commission voted 5-0 to approve DR/FAR/VAR 03-105 based on the findings and conditions set forth in the staff report.

2. **DR/VAR/SUP 04-49: 346 Madrone Avenue (AP #21-041-06 & 07): Henry Shapiro, applicant/property owner. Request for the following permits to allow construction of a new 1,273 square foot single-family dwelling (428 square feet below grade) and a two-car street parking structure in the Madrone Avenue right-of-way; (1) Design Review for a new two-story single-family dwelling; (2) a Slope Use Permit for excavation of approximately 416 cubic yards of earth; and (3) a Variance to off-street parking requirements for two on-site parking spaces and two on-site guest spaces. Note: The applicant has provided an alternative proposal, which would modify the slope use permit, to include a two-car garage to be located partially on-site and partially in the public right-of-way, rather than the two-car street parking solution.**

Associate Planner Toft presented the staff report.

Commissioner McCluney asked if they could shorten the anticipated 20-minute traffic delays. Associate Planner Toft stated the code allows for 15-minute delays under normal grading permits. The applicant could respond to this request.

Commissioner McCluney asked about the variance for the parking garage and whether the lifts were included as parking. Associate Planner Toft stated the variance was required because the structure would be located partially in the right-of-way. Staff would not encourage the Commission to recognize the lifts as required parking but rather a “brownie point” in the variance application. Staff would not administratively count those as parking spaces.

Commissioner Deignan discussed moving the house towards the garage and expressed concern with diminishing the buffer zone. Associate Planner Toft stated the house could be moved to the point where the front façade is over the back of the garage and there would still be room for fill over the garage to establish some landscaping between the structures.

Commissioner Stahl asked about the number of off-street parking spaces provided by the garage. Associate Planner Toft stated technically it only provided two since it would be considered tandem parking and the lifts would be more of a form of vehicle storage.

Commissioner Stahl stated it appeared the house was in the same location for both parking solutions. Associate Planner Toft stated that was correct.

Commissioner Young asked if the Heritage Redwood tree would need to be removed if the house were moved towards the garage. Associate Planner Toft stated they would certainly need to take greater measure to protect the tree. Commissioner Young stated he did not think the tree could be saved if the garage scenario were constructed.

Acting Chair Heitkamp noted the proposal would be 27 feet from the neighbor to the east and about 10 feet from the neighbor to the west. Associate Planner Toft stated the lot to the west had an accessory structure that would be 10 feet from the proposal. The house itself was not in the site plan and is located far from the property line.

Acting Chair Heitkamp asked if the Construction Management Plan could include other conditions, such as notification of road blockages. Assistant Planner Toft stated advanced notification of construction times could be included.

Acting Chair Heitkamp asked about the use of the term “parking structure” in the Variance Findings. Associate Planner Toft stated it is intended to could address either type of parking structure.

Acting Chair Heitkamp asked if the telephone pole would have to be removed. Associate Planner Toft stated “yes” and that it is indicated on the plans.

Acting Chair Heitkamp opened the Public Hearing.

Mr. Henry Shapiro, applicant, made the following comments:

- Road closures will depend on the soil conditions. Access will be limited for safety reasons and for a maximum of 20 minutes. The closure is primarily for protection in case the unstable soil starts to come down. He sated the work would be similar to another project currently under way on Marina Vista where they have not had any problems with getting trucks in and out.
- He has reduced the project by 250 square feet and it now conforms with the minimum FAR. He has reduced the overall excavation by almost 1/3<sup>rd</sup>.
- The Commission and Council have resolved the issues regarding substandard lots and basements relative to FARs.

- He would be happy to provide either parking scenario.
- The City Engineer feels the excavation plan is appropriate. Soils review has been provided by two different firms and the reports have been peer reviewed.
- There are no windows that face directly towards the neighbors and there is a minimum of 32 feet between homes.
- He stated that the proposal fits within the character of the neighborhood referring to the average house and lot size in the area.
- No Bay trees or heritage trees will be removed.
- There is only one variance request for parking; in order to provide the parking more soil would have to be removed.
- All of the proposed work will be on the City right-of-way or on the site.
- The building should stand on its own merits.
- His family plans to occupy the house upon completion.

Ms. Jean Leutwyler, Madrone Avenue, made the following comments:

- She did not want a retaining wall built on her property.
- She wanted to know what would happen to the off-street parking spaces on her side of the street.

Associate Planner Toft referred to page 3 of the site plans and stated the retaining wall would be located along the edge of the right-of-way in the existing graded area before it drops down. The property line is slightly into the current parking space and parked cars straddle that line. The street will be slightly redirected towards the Shapiro property and the lane will be widened to accommodate the parking spaces.

Acting Chair Heitkamp asked for clarification that the wall would be in the right-of-way and the parking would be improved. Staff stated that that was correct noting there will be more room for off-street parking and the area will be surfaced and improved.

Ms. Linda Allen, Madrone Avenue, made the following comments:

- That hillside is not “unstable”.
- When the Leutwyler’s purchased their property it was resurveyed and access might be more difficult than previously thought.
- Most of the new homes in the area are on flat lots.
- The “lots of record” issue was confusing and open to interpretation. The property in question has had 3 different owners and has been merged.
- She referred to the discussion at the Joint Council/Commission meeting regarding basements and stated that the Planning Commission cares about below grade square footage because of the excavating that is required.
- They should bring the proposal more in line with the garage.
- They will need to excavate most of the lot to build the below-grade area.
- The location of the house (set back on the lot) would impact at least 4 homes. Mass as viewed from the street should not be an issue.
- Moving the house down the lot would leave more natural state and require less screening.
- She was opposed to the garage for safety reasons.
- This is a very small lot and shouldn’t be compared to other properties.
- She asked the Commission to deny the project.

Mr. David Gaudry, Madrone Avenue, made the following comments:

- He agreed with the comments made by Ms. Allen.
- Moving the house further down the hill would lessen the impact on his home.
- He asked that there be some type of fencing or screening placed around the property prior to construction.
- He asked about the level of detail contained in the engineering reports.
- He asked why the house could not be 850 sq.ft. on the grade without subterranean square footage. There is more excavation with underground space.

- He noted that part of the slope use permit process is to look at the grading.
- The amount of excavation has been a concern from the beginning and he would like it reduced. He was concerned about the stability of the hillside and the impact of the grading on his property.
- He discussed the lack of parking and was concerned about the length of time the street parking would be unavailable.

Acting Chair Heitkamp discussed the Construction Management Plan and stated it is quite detailed in its requirements (noticing, hours of operation, shuttling of workers, etc.).

Commissioner McCluney asked Mr. Gaudry how the visual impacts to his home would be changed if they move the proposal towards the street. Mr. Gaudry stated he was not sure he would even see the proposal but moving the house down the hill would require less excavation. Acting Chair Heitkamp asked about the distance between the proposal and his home. Mr. Gaudry stated it would be about 20 feet.

Mr. Doug Frolich, Madrone Avenue, made the following comments:

- He was concerned about the lack of parking in the canyon area.
- Granting a parking variance for a new house puts more of a strain on existing properties and the Canyon trailhead draws people from all other.
- There are existing homes in the area with no off-street parking.
- He had concerns with the parking pad and vehicles backing up Redwood Avenue. This would be very dangerous.
- If the City wants to grant parking variances it should create the same number of parking spaces elsewhere.

Acting Chair Heitkamp asked Mr. Frolich about the alternate proposal for a garage. Mr. Frolich stated his neighbor has a similar type of garage and he has to make a “10-point” turn to get out.

Ms. Linda Goldberg, Oak Road, made the following comments:

- The intersection at Redwood and Madrone is very dangerous and the Commission should look at the traffic report for that intersection. If more cars are added there will be more problems.
- She discussed the poor condition of the roads, retaining walls, and curbs.
- She was opposed to setting a precedence of building on a substandard lot by granting a parking variance for parking in the City right-of-way.
- Applicants that appear numerous times seem to finally get what they want to the detriment of the neighborhood.

Ms. Bridget Lane, Madrone Avenue, made the following comments:

- She was concerned about the proposal’s overall impact to the entire canyon area.
- There is more traffic in the area. The road conditions are terrible and Madrone Ave has only been paved once or twice. The trucks will make it worse.
- Her family has been in the area for 100 years and many of the lots in the area were intended for tents and are substandard.

Acting Chair Heitkamp noted that the City now charges roadway impact fees for new construction.

Dr. Mike Allen, Madrone Avenue, made the following comments:

- He discussed the “lots of record” issue.
- Moving the house towards the street would be beneficial.

Acting Chair Heitkamp asked about the distance between his home and the proposal. Dr. Allen stated it was about 20 feet between the buildings. Commissioners Heitkamp and Stahl both explained that as a legal lot of record the lot is considered to be buildable.

Ms. Marsha Mazonas, Valley Way, made the following comments:

- She was concerned about access for emergency vehicles during construction.

Mr. Doug Frolich, Madrone Avenue, made the following additional comment:

- He mentioned a specific event where a delivery truck got stuck at the end of Madrone Avenue and he had to help the driver backup down Madrone Avenue.

Ms. Linda Goldberg, Oak Road, made the following additional comment:

- She stated that the neighborhood recently had a meeting with the Fire Chief and he had stated that a fire in Madrone Canyon would have to be put out in the first 20 minutes to protect the rest of the Canyon.

Ms. Pat Kaiser, Orange Avenue, made the following comments:

- The canyon area is impacted by any construction in the area.
- Trucks of a certain size should be prohibited in the canyon area.

Mr. Henry Shapiro, applicant, made the following comments:

- The street will be widened and there will be space for the construction vehicles.
- The unstable soil is on the surface- there is solid bedrock below.
- Parking will be available on the south side of the street in the evenings.
- The driveway cutout will be used for a staging area.
- He will limit the inconvenience to neighbors as much as possible. It should take only 6 to 7 days to do the excavation and the road should be impacted no more than 2 to 3 weeks.
- There will be the same amount of excavation no matter where the house is located. The house is only 18 feet wide at the front at grade.
- The impacts are due to the parking and not the house.

Acting Chair Heitkamp closed the Public Hearing.

Commissioner Deignan provided the following comments:

- The Commission has seen this application numerous times and the applicant has made changes based on their comments.
- The City Council has resolved the issue of “lots of record” and below grade construction.
- The proposal represents a very reasonable use of the site.
- The applicant has brought the parking situation a long way towards compliance.
- The applicant’s engineer is familiar with the adjacent site, plus there has been a great deal of peer review.
- He could support the idea of moving the house down somewhat.
- He supported the staff recommendation regarding the parking garage alternative.

Commissioner McCluney provided the following comments:

- He agreed with the comments made by Commissioner Deignan.
- The applicant has brought the proposal into compliance with most of the regulations.
- The Construction Management Plan will be one of the best tools for the neighbors. He would like to include a requirement that workers carpool to the site. Staff should investigate limitations on truck sizes.
- It would be to everyone’s benefit if the construction were completed quickly.
- He agreed with the staff recommendation regarding parking and stated a garage was the superior scenario.
- The size of the proposal was quite small and reasonable for the site.
- He would prefer to keep some distance between the house and the garage.
- He would prefer not to micromanage the project.
- He could approve the application with the garage scenario.

Commissioner Stahl provided the following comments:

- He was concerned about the Heritage Tree and did not think the garage could be built without removing the tree. Planning Director Kaufman stated they could approve the project subject to obtaining a Heritage Tree Removal permit.
- Any building on this parcel will have an impact to the canyon area. The property owner has a right to build something on this parcel. Everyone takes the severe condition of the Canyon seriously.
- The Construction Management Plan should include noticing neighbors, limiting time and size of trucks, and some type of fencing or barrier around the property during construction.
- The applicant should be required to post a bond in the event the project was abandoned and the property left in a hazardous condition.
- This is the smallest project he could recall in his 5 years on the Commission.
- The project was relatively reasonable and the house was located in a good spot on the hillside. Sliding the house down the hill would line it up with the neighbor's homes and detract from the natural landscaping in the area. There should be a setback and buffer.
- There were no privacy concerns and over time the house will not be visible.
- He would prefer the garage scenario as opposed to the parking pad. He would like the garage moved to the west and away from the trees. He would like staff to work with an arborist to try to save the trees.
- Staff should verify the location of the retaining wall.
- He could support the project.

Commissioner Young provided the following comments:

- The building is compatible with the character of the neighborhood.
- The garage option was aesthetically a better solution.
- Sliding the house down the hill would leave more of the existing site and make the application more aesthetically pleasing.

Acting Chair Heitkamp provided the following comments:

- She agreed with the comments made by the other Commissioners.
- She appreciated the reduction of the size of the house to the bare minimum.
- She preferred the garage solution. She agreed with Commissioner Stahl's suggestion on how to save the tree.
- She liked the proposed location of the house but would be open to moving it down somewhat if that was the consensus of the Commission. She did not want the proposal to overwhelm Madrone Avenue.

Planning Director Kaufman suggested that the Commission might want to include a condition that would allow staff to work with the applicant and the neighbors to relocate the house and garage in accordance with the Commission's direction.

M/s, Stahl/McCluney motioned and the Commission voted 5-0 to approve DR/UP/VAR 02-49, with the garage alternative, based on the findings in the staff report, and the following general modifications to the conditions (Staff was directed to incorporate these modifications in a form that is appropriate for the format of the conditions of approval): Under Slope Use Permit Conditions, Prior to Issuance of Building Permit, #1) "Prior to issuance of a building permit... *The applicant shall provide survey verification of right-of-way if required by the City Engineer.*" 2) "As part of the... the applicant shall submit a comprehensive construction management plan *including, but not limited to, pre-noticing to neighbors of road closures, contact information for neighbors, time limits of construction, and shuttling of workers,* for review.... *The applicant shall provide a performance bond to ensure against work stoppages.*" 4) "*The applicant shall work with staff to locate the dwelling closer to the garage and to locate the garage to the west to preserve the Heritage Tree and shall submit an arborist report for protection of the Heritage Trees.*" Under During Construction, the following condition shall be added, 7) "*Protective fencing shall be constructed along both property lines in the area of*

*construction.*” This approval shall include a waiver of the Front Yard Setback Variance. The staff and the applicant shall work out an arrangement for the siting of the house.

Acting Chair Heitkamp stated there was a 10-day appeal period.

The Commissioner took a 5-minute break at 9:25 p.m.

The meeting reconvened at 9:30 p.m.

3. **DR/FAR/VAR 04/37; 101 Pepper Avenue (AP #21-231-22); Marliss & Gregg Riddle, applicants/property owners. Request for the following permits to replace an existing carport with a two-story accessory structure comprised of a lower level garage and second story “cabana” room: (1) Design Review for a new two-story accessory structure of approximately 1,380 square feet of floor area; (2) a FAR Exception to increase FAR from 0.29 to 0.40, where 0.295 FAR is the maximum permitted due to lot slope;; (3) a Variance to LMC Section 18.20.040 for an accessory structure to be 22 feet in height where 15 feet is the maximum permitted; (4) a Variance to LMC Section 18.20.070.A to have a two-story accessory structure located partially within the 20-foot front yard setback; (5) a Variance to LMC Section 18.20.070.B to modify and expand a non-conforming deck structure located partially in the required 5-foot side yard setback; and (6) a Variance to LMC Section 18.34.080 to reduce natural state on the site to 29% where 45% natural state is required.**

Associate Planner Toft presented the staff report. He stated there were three items of late mail in opposition to the project.

Commissioner McCluney asked why they were already below the Natural State requirements. Associate Planner Toft stated the file record does not provide a detailed account of the history of the property. Homeowners can do patio and brick work on their property without getting a permit. Commissioner Young asked about the covered walkway. Associate Planner Toft stated it would be counted against site coverage and natural state calculations but not floor area.

Acting Chair Heitkamp opened the Public Hearing.

Ms. Marliss Riddle, applicant, made the following comments:

- The carport is collapsing and they would like to repair it and add a family room.
- This is the only logical place to add the family room.
- They replaced some decaying concrete with a new brick patio.
- They are putting new siding on the house and some new windows.
- The structure would compliment the house.
- They would be willing to reduce the height of the proposal.
- They didn’t mean to cause uproar in the neighborhood.

Commissioner Young asked if they would be willing to reduce the size of the garage. Ms. Riddle said they would be willing to reduce it to a two-car garage.

Ms. Dorothy Meyer, Pepper Avenue, made the following comments:

- The existing dwelling is five feet from her property line.
- She was opposed to an “accessory” building of this size and scale.
- She was concerned that the structure would set a precedent.
- She was concerned that the structure would be more of a house or rental unit and that the applicant has told her that she wanted to build a coach house but would not rent it for ten years.

Mr. Chris Hunt, Pepper Avenue, made the following comments:

- He was opposed to the proposal for the following reasons: the massive size; it would be inconsistent with the neighborhood and R-1 zoning; this was a highly visible site; there were no hardships; the proposal was excessive. It reduces the natural state and it is in the setback.
- The Zoning Ordinance maintains certain minimums of standards for safety and health requirements, and a sense of scale for the neighborhoods. People move to the neighborhood because of the sense of scale. This project would be contrary to this.
- The story poles indicate the inappropriateness of the project.
- The project would block views.
- Changes should be made to bring the structure into conformance with the legal requirements.

Mr. Andy Giralis, Alexander Avenue, made the following comments:

- He stated that his living and dining room look directly at the story poles and he submitted photographs to the Commission.
- This is an R-1 Zone and he was concerned about setting a precedence.
- He was concerned this would become a rental unit.
- The streets are narrow and the parking is limited in that area.
- He noted that a “cabana” is a shelter on the beach or a bathhouse.
- He stated that their privacy and view are extremely important to him and his wife and that she is ill and enjoys the view they have of Palm Hill.
- He submitted a letter from Mr. Jack Erickson, Alexander Avenue, who was opposed to the project and felt it was too high and massive.
- He urged the Commission to deny the project.

Acting Chair Heitkamp closed the Public Hearing.

Acting Chair Heitkamp stated there was a lot of correspondence from neighbors expressing concern about the size of the project, the excessive lot coverage, and the potential for a second unit.

Commissioner McCluney provided the following comments:

- He stated that the applicant seems to realize that the neighbors are not happy with the proposal.
- He agreed with the neighbors and the staff recommendation for denial.
- The project was much too large and out of scale for the site and the neighborhood.

Commissioner Deignan provided the following comments:

- He agreed with Commissioner McCluney.
- He noted the site constraints and that because of its location it appears much larger.
- The project was out of character with the neighborhood and would loom over the neighbors.
- He stated that the structure had the look of a second unit.
- An accessory structure should not compete with the main structure.
- He noted that there were a number of variances being requested.
- He suggested that if the applicants come back with another proposal, they should look at the findings that need to be made.

Commissioner Stahl provided the following comments:

- He agreed with the comments made by the other Commissioners.

Commissioner Young provided the following comments:

- The site is nearly maxed out. It is unfortunate this is a corner lot because the configuration does not lend itself to the proposed massing.
- The project is too ambitious.

Acting Chair Heitkamp provided the following comments:

- She agreed with the comments made by the other Commissioners.
- The site is maxed out and these lots can accommodate only so much.
- She concurred with the staff recommendation.

M/s, Stahl/Deignan motioned and the Commission voted 5-0 to deny DR/FAR/VAR 04-37 based on the findings set forth in the staff report.

Acting Chair Heitkamp stated there was a 10-day appeal period.

## **BUSINESS ITEMS**

### 1) Commissioner's Reports

Commissioner Young introduced himself and discussed his background and qualifications. The other Commissioners did the same.

At the request of the Planning Director to choose a date for the public hearings on the Draft Housing Element and related items, the Commission selected September 21, 2004.

### 2) Election of New Officers

M/s, Deignan/McCluney motioned and the Commission voted 5-0 to elect Commissioner Heitkamp as Chair.

M/s, McCluney/Heitkamp motioned and the Commission voted 5-0 to elect Commissioner Stahl as Vice-Chair.

### 3) Planning Commission Minutes of July 7, 2004

M/s, Stahl/McCluney motioned and the Commission voted 4-0 (Young abstained) to approve the minutes of July 7, 2004 with the following correction: on page 4, under Commissioner Stahl's comments, the first bullet should read: "*He* agreed.....", and on page 7 the 4<sup>th</sup> paragraph should read: "Mr. *Dwayne* Price...", and the 5<sup>th</sup> paragraph should read: Mr. Ted *Camiccia*...".

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

Respectfully submitted,

Toni DeFrancis  
Recording Secretary