

LARKSPUR PLANNING COMMISSION
MEETING MINUTES OF JANUARY 9, 2007

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

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

Staff Present: Nancy Kaufman, Planning Director
Neal Toft, Senior Planner
Kristen Teiche, City Planner
Deric Licko, Assistant Planner

OPEN TIME FOR PUBLIC EXPRESSION

There were none.

PLANNING DIRECTOR'S REPORT

- There will be a TOD (Transit Oriented Development) Workshop on January 18th in Santa Rosa.
- Future meeting agenda items will include Zoning Ordinance Amendments, Design Guidelines for "Green Building", and amendments to FAR and Parking requirements.
- Mr. Shawn Nazari is working on conceptual drawings for Subarea 1 of CLASP.
- Larkspur Housing Partners has met with staff and has said that they will submit an application for Subarea 3 by the end of the month.

Commissioner Heitkamp asked if staff could obtain copies of the "Green Building" Design Guidelines for the City of Novato, San Rafael, and Palo Alto. Planning Director Kaufman stated she would get copies for the Commission. Staff does not plan to "reinvent the wheel". Commissioner McCluney stated he thought they had decided to adopt the County guidelines. Chair Stahl stated that would be a good starting point.

Commissioner Heitkamp referred to the article in the paper about a legal challenge of old subdivision maps. She asked if the City should be concerned. Planning Director Kaufman stated there were a number of cases a few years ago that had to do with issuing Certificates of Compliance. She asked for a copy of the article.

APPROVAL OF CONSENT CALENDAR ITEM

1. **SUB 06-63: 2000 Larkspur Landing Circle (APN 018-171-32 portion). Campus St. James Larkspur LLC, applicant; Ross Valley Sanitary District of Marin County (Sanitary District No. 1), property owner. Project applicant proposes to subdivided**

9.19 acres into four parcels. Proposed land uses are as follows: Parcel One (1.48 acres)- future hotel site; Parcel Two (1.52 acres) and Four (1.82 acres)- future condominium sites and park dedication area (Parcel four); Parcel Three (4.37 acres)- future single family attached townhomes. Proposed build out includes a hotel and 126 for-sale multi-family residential units in nine buildings with landscaping and a clubhouse facility with swimming pool. A Mitigated Negative Declaration was prepared for the project and adopted by the Larkspur City Council on August 17, 2005. This item was continued from December 12, 2006.

Staff Recommendation: Continue to January 23, 2007 to allow for additional review of the Tentative Parcel Map.

- 2. DR/FAR/SUP 06-75: 66 Ardmore Road (APN 021-121-27). Bob Stadelman, applicant; Prentiss & Virginia Wilson, property owners. Request for the following permits to allow for the construction of a 448 square foot detached accessory building to be used as a guesthouse: (1) Design Review; (2) Floor Area Ratio (FAR) Exception to allow a 0.22 FAR (3,663 sq. ft.) where a 0.13 FAR (2,204 sq. ft.) is permitted by code due to lot slope; and (3) Slope Use Permit to allow approximately 57 cubic yards of excavation on a property with an average slope of 37 percent.**

Commissioner Heitkamp referred to the application for 66 Ardmore Road and asked if the improved fence would extend over the Helen Lane easement. Assistant Planner Licko stated “no”. Chair Stahl asked the applicants if they read the staff report and could accept the conditions. The applicant stated “yes”. Chair Stahl stated he would recuse himself from voting on the application since he lives near the subject property.

On the Consent Calendar, M/s, McCluney/Heitkamp motioned and the Commission voted 5-0 to continue SUB 06-63, 2000 Larkspur Landing Circle, to the January 23, 2007 meeting.

On the Consent Calendar, M/s, Heitkamp/McCluney motioned and the Commission voted 4-0 (Chair Stahl abstained) to approve DR/FAR/SUP 06-75, 66 Ardmore Road, subject to the findings and conditions set forth in the staff report.

Commissioner McCluney commended staff on a clear and concise staff report. Commissioner Heitkamp stated she liked the “boilerplate” conditions separated from the conditions that are specific to the application.

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

PUBLIC HEARING ITEMS

- 3. FAR/VAR/DR/EX 06-80: 177 Holcomb Avenue (APN 21-183-02). Request for the following permits to allow for the remodel and addition of a second story to an existing 1,114 sq. ft. dwelling on a 2,427 sq. ft. lot: (1) Design Review; (2) Floor Area Ratio**

(FAR) Exception to allow a 0.58 FAR (1,402 sq. ft.) where a 0.40 FAR (971 sq. ft.) is permitted by code; (3) Variance to construct the second floor addition 14.9' from the front lot line where a 20' setback is required; and (4) an Exception Permit to construct a new roofline with a steeper pitch on a nonconforming structure that encroaches within the front and rear yard setbacks.

City Planner Teiche presented the staff report.

Commissioner Heitkamp asked if there was a firewall between the garages at 117 and 121 Holcomb. The applicant stated they recently installed two layers of 5/8th inch sheetrock.

Commissioner Heitkamp asked if there was a parking or construction management plan since this was a very narrow street with limited parking. City Planner Teiche stated staff did not require this but the Commission could add this as a condition of approval.

Commissioner Heitkamp referred to Variance Finding #1 and stated she was not comfortable with the reference to the small lot because that is not a unique feature in Larkspur. She stated the following special circumstances could apply to this property: the location opposite the open space, and the extension into the front yard is a consistent pattern along the street.

Commissioner McCluney had questions about the requirement that properties with inadequate on-site parking be upgraded or request a variance should the remodeling exceed 60% of the value of the structure. Planning Director Kaufman stated this was determined by the amount of floor area that was impacted by the project and is based on the value of the improvement compared to the value of replacing the existing structure. Staff wanted to make the Commission aware of the requirement.

Commissioner McCluney referred to page 5 of the staff report and the discussion about setting a precedence and stated another home in the area that has a boxy second floor would have set a much more extreme precedence. City Planner Teiche stated the regulations were much different at the time that second floor addition was constructed.

Chair Stahl opened the Public Hearing.

Mr. Edward White, applicant, made the following comments:

- They were trying to keep the bulk of the addition over the center of the building to minimize the impact to the bike path, street, and rear neighbors. This would create a slimmer visual mass and an “attic” type feeling to the second level.
- They have gone from two to one variance request.
- The rear neighbors signed a letter of support for the project.
- They went from a .64 to a .58 FAR and reduced the requested square footage from 425 to 288.
- The rear dormer is a foot narrower.

- He discussed some statistics about the neighborhood: out of 16 homes, two have a third story, 11 are two stories, and three are one story. Out of 29 homes, they are tied for the 4th smallest home and would remain so after the project.
- It is a small house and would continue to be a small house.

Commissioner McCluney asked Mr. White to address the 60% remodel issue. Mr. White stated the current foundation would be supporting the new, second story project and they would be putting a new foundation inside the perimeter walls to support the first floor. They do not need to remove the exterior walls.

Chair Stahl had questions about the dormers and stated the 6' ceiling height seemed low for habitable space. He asked if this would be code compliant. Mr. Wright stated the code requires that 50% of a room is higher than 7'6" in height. The rest of the room can be any height you want and anything below 5' in height is not counted. There is a careful balance between keeping the FAR low while complying with Building Code requirements. City Planner Teiche referred the Commission to the handout she had place on the dais that addressed this issue.

Commissioner Deignan asked how much of the second floor area that is shaded "white" (under 7' ceiling height) is not counted as FAR. Mr. White stated he was not sure but some of that area goes down to 3' in ceiling height.

Commissioner Young had questions about the rear dormer that tilted upward instead of downward and whether or not tilting it downward would add area. Mr. White stated that area had 8' ceiling heights and was already counted. He noted it was tipped up so the windows did not face the rear neighbor's upper bedroom

Mr. James Holmes, Madrone Avenue, made the following comments:

- He asked if it is good planning and consistent with the findings to authorize the expansion of a tiny cottage into a full fledged, 3-bedroom family style home when it has no parking.
- The property has essentially no on-site parking and the neighboring streets have a minimal amount of parking as well.
- It would be very unwise to increase the intensity of use. This would set a precedent.
- The traffic conditions on this street are unsafe. The Commission should be hesitant to exacerbate an already hazardous situation.
- This kind of expansion is of concern due to the lack of yard space- children would have no place to play except in the street or on the bike path.
- The applicant has taken a number of steps in the right direction in terms of the FAR and Design Review.
- He was opposed to the increase in the width of the dormers in front.
- Approving this application would be a grant of special privilege.
- There is an issue with regard to the Variance findings for health, safety, and welfare.

Mr. Wright made the following comments:

- They have a garage and parking space that is 18' deep and about 11' wide. He was told this was a legal, conforming parking space.
- Short driveways are a pattern through out the neighborhood and everyone parks in their driveway. They have two, off-street parking spaces.
- The additional square footage would not constitute a need for more automobiles.

Commissioner McCluney asked Mr. White if the garage was used for a vehicle. Mr. White stated "no" but it was a legal parking spot.

Chair Stahl asked whether the parking was up to code. City Planner Teiche stated it was substandard and neither space was up to code. They can fit a car in the driveway but it would hang out a bit. Chair Stahl asked if they needed a variance for parking. City Planner Teiche stated not unless they exceed 60% of the value of the structure.

Chair Stahl closed the Public Hearing.

Commissioner Deignan provided the following comments:

- He noted the Commission, at the previous meeting, expressed support for a minor expansion. He expected something more modest.
- This is an application for a 3-bedroom house on a very small lot.
- He was concerned about the number of variances and exceptions being requested.
- He noted about half of the space on the second floor was not counted towards the FAR and thus it would "act" like a bigger home.
- He was concerned about the increase in intensity of use on this property.
- Approving this application would "raise the bar" for the entire area.
- He had trouble supporting this application.

Commissioner McCluney provided the following comments:

- The design was attractive and he liked the way the house looked.
- He was taken aback by the reverse dormer but could live with it.
- He disagreed with Commissioner Deignan and felt this was a modest addition.
- The parking impact issue has already played out.
- The applicant responded to the size issue.
- The community is growing.
- He could support the variance for the second floor addition and the exception permit.
- This project would not set a precedent.
- He could support the project.

Commissioner Heitkamp provided the following comments:

- She agreed with the comments made by Commissioner McCluney.
- This is an attractive design that mitigates the bulk and mass very efficiently.

- This is a more efficient floor plan than the previous application.
- Holcomb is basically a street of row houses and has had an intense use all its life. It is equivalent to an R-2 rather than an R-1 Zone.
- Enlargement of this house will not set a precedent other than for the other row house along Holcomb. It will not set a precedent for the other streets in the area.
- She is concerned about the teardown potential but she is satisfied with the innovative engineering approach.
- She stated the variance findings should be amended to include her previous comments.
- Parking will be no more of a problem than currently.
- She could approve the application as long as the variance findings were amended.

Commissioner Young provided the following comments:

- He agreed with the comments made by Commissioners McCluney and Heitkamp.
- This is a modest and reasonable addition.
- He had no problem with the design or the variance and exception requests.
- The tilting of the dormer made sense.
- He could support the project.

Chair Stahl provided the following comments:

- He acknowledged that he was opposed to any addition during the discussion of the previous application; he is in favor of keeping small houses as part of a diverse housing stock, but under the current proposal this will still be a modest house.
- The design does a good job to mitigate the height and bulk.
- He agreed with Commissioner Heitkamp's suggested amendments to the variance findings.
- He thought the parking problem would take care of itself.

M/s, Heitkamp/Young motioned and the Commission voted 4-1 (Deignan voted no) to approve FAR/VAR/DR/EX 06-80, 117 Holcomb Avenue, based on the findings and conditions set forth in the staff report and the following amendments to the variance findings: 1) remove reference to the small lot size, and 2) include reference to the location opposite the open space and that the extension into the front yard is a consistent pattern along the street.

4. **SUP 06-64: 81 Via La Cumbre/380 & 388 Bretano Way (APN 70-233-20/70-233-30 & 32). Request for the following permit to allow for the construction at 81 Via La Cumbre: a) repair of a south side yard stairway and retaining wall, b) excavation and construction of a new north side yard retaining wall and stairway, and c) installation of fill and construction of a new retaining wall in the rear yard and partially on the adjacent downhill properties at 380 and 388 Bretano Way; (1) Slope Use Permit to allow approximately 160 cubic yards of grading (36 cubic yards of excavation and 124 cubic yards of fill). Project proposal also includes undergrounding of utilities and drainage line improvements, but no modifications to the existing residential dwelling are proposed.**

Senior Planner Toft presented the staff report.

Commissioner Young asked if the various utility easements were shared by the three properties. Senior Planner Toft stated the easements do cross over each other. Commissioner Young asked if the utility companies have been notified about the proposal. Senior Planner Toft stated “yes”. Commissioner Young asked about the average height of the wall. Senior Planner Toft stated it ranges from zero to seven feet high. He referred to Sheet S1.1 and noted the wall was fairly shallow at the south property line. The highest point of the wall was at the northwest corner (the lowest point of the grade on the downhill property).

Commissioner McCluney asked if purchase of the land would satisfy some of the issues raised by staff. Senior Planner Toft stated there would need to be a more thorough review of the Zoning entitlements (FAR, setbacks, etc.) if the land were to be purchased by the applicant. Currently, all that is “sold” is the right to build walls and to install landscaping. The easement agreement language is included in the staff report. The Commission would still be reviewing a Slope Use Permit even if the applicant applied for a lot line adjustment.

Commissioner Heitkamp stated she had similar concerns regarding the floor area ratio and slope calculations and asked if the lower landowner still had the use of the easement in his calculations. Senior Planner Toft stated “yes”. Commissioner Heitkamp asked if the agreement was between these two property owners or “ran with the land”. Senior Planner Toft stated it is a deed restriction that runs with the land. Commissioner Heitkamp had questions about liability. Planning Director Kaufman stated that was a concern of staff. The applicant would be responsible for maintenance but the property could change hands in the future and it could become complicated at a later date.

Chair Stahl asked if the applicant had a legal standing to apply to build within the easement. Senior Planner Toft stated “yes” with authorization from the property owner. The applicant would have the right to act as the “contractor” and staff would manage it as an improvement on adjacent property. Chair Stahl stated it would seem simpler if the neighbor submitted the application. Senior Planner Toft agreed it made for an unusual situation in terms of permitting.

Commissioner McCluney asked if the easement was located along the backyard fence. Senior Planner Toft stated it was below the fence. Commissioner McCluney asked if the fill would go down to the easement or fence line. Senior Planner Toft stated it would go down to the easement line.

Chair Stahl opened the Public Hearing.

Mr. Roland Ortgies, applicant, made the following comments:

- He thanked the Planning staff for their assistance.
- The project would benefit the adjacent neighbors and the community at large.

- The wall would be built in a safe manner and would last a very long time.
- He described the project: 1) installation of a drainage and sewer line, 2) undergrounding of public utilities, 3) replacement of existing south retaining wall, 4) construction of west (6' wide easement) retaining wall, and 5) replacement of existing north retaining wall.
- There are benefits to each of the improvements.
- The exposed surfaces of the wall would be finished with stucco. They plan to install landscaping and irrigation.
- The neighbors to the north and south will not see anything difference except they will not have to see a power line.
- There is an agreement drawn up by an attorney regarding construction in the easement. They are permitted to construct "retaining walls, fences, plants, and pathways". No structures can be built in the easement.
- They are solely responsible for maintaining and fixing the walls and hold the lower property owner harmless.
- There is a separate easement drawn up for both lots (380 and 388 Bretano Way).
- This kind of arrangement will not set a precedent since it is quite unusual.

Commissioner Deignan stated the landscaping plan indicates a lawn area that extends out to the edge of the retaining wall and he asked about some type of fall protection. Mr. Ortgies stated they plan to install a metal railing. Senior Planner Toft stated there were two detailed drawings for the safety railings.

Commissioner McCluney asked Mr. Ortgies why he chose not to purchase the property and apply for a lot line adjustment. Mr. Ortgies stated that would reduce the FAR of the lots below and would not be in the best interests of those property owners.

Commissioner McCluney asked what was driving the proposal. Ms. Ortgies stated they were retired and spending a lot more time at home. She wanted a place to do her painting and a space for their two dogs.

Commissioner McCluney asked if they would go ahead with the project if they were not able to expand the yard. Mr. Ortgies stated there would be no point in doing the rest of the project. Ms. Ortgies stated that the northwest corner was the sunny, usable part of the back yard.

Commissioner Heitkamp asked if they considered a deck on their main living space. Mr. Ortgies stated they had thought about building a small deck on the second level of the home. Commissioner Heitkamp stated a deck could be a better alternative in terms of use, sun exposure, views, etc.

Commissioner Young stated the current area of the back yard appeared to be about 2,000 square feet. Mr. Ortgies stated he was not sure.

Chair Stahl closed the Public Hearing.

Commissioner Heitkamp provided the following comments:

- She had no problem with the southern retaining wall, the undergrounding and drainage work.
- She can appreciate the desire for a bigger backyard but is struggling with the issue of the fill. There are alternatives such as a deck that could relate to the floor plan in a better manner.
- She could not find a justification for the height of the retaining walls and the amount of fill especially on such a steep slope.
- The easement agreement is a bit tricky and there could be problems with it in the future.
- This is a virtual expansion of the one lot with the other lot retaining all the development entitlements.
- She could not make the Slope Use Permit Findings.

Commissioner Young provided the following comments:

- He agreed with the comments made by Commissioner Heitkamp.
- He asked how large a yard was needed and stated the proposal adds about 650 square feet to the backyard.
- A deck would make sense and serve the applicant's well.
- He could not support going to the property line with the fill.

Commissioner Deignan provided the following comments:

- The Commission has approved other projects on steeper slopes that have had greater impacts.
- There are many benefits to this project- undergrounding the utilities, stabilizing the slope etc.
- The approach seemed awkward (easement vs. purchase of the property) and perhaps the neighbor should have been the applicant.
- Future property owners would be aware of the agreement since it was a deed restriction.
- He would like to hear a more compelling reason why this should be a lawn area vs. a deck.
- He could approve the retaining wall located in the easement.

Commissioner McCluney provided the following comments:

- He supported the repair of the old stairway and existing retaining wall and the improvements.
- He asked if the applicant could come back with a grading permit application to fill along his property line if this application were denied. Senior Planner Toft stated it would depend on the amount of grading- the limit for steeply sloped lots (25% or more) was 25 cubic yards.
- A deck would be a very low impact answer.
- The property is hidden and the expanded yard was currently an otherwise unused area.
- He would look at the fill and retaining wall on the south side more favorably if this were a sale of property and lot line adjustment.
- He discussed the option of putting fill up to the property line.
- Generally speaking, they are trying to do the right thing.

Senior Planner Toft stated a deck could add lot coverage and reduce natural state and staff has not had a chance to analyze this issue. In terms of a lot line adjustment, the downhill property that is developed did recently get a FAR Exception and, therefore, a Lot Line Adjustment would exacerbate that condition. Commissioner Heitkamp asked if the deck would be counted towards lot coverage if it were on the second level. Senior Planner Toft stated it would be counted towards lot coverage and natural state. Chair Stahl asked if a retaining wall could be built on the property line. Senior Planner Toft stated “yes”. He stated the concern in terms of using the easement, from a zoning point of view, was this is not a minor wall and they are building “usable space” on a separate property. Staff was concerned that the easement was dictating the wall design. The Planning Commission discussed the pros and cons of the project.

Commissioner McCluney asked staff if the easement agreement was as thorough as they would like. Senior Planner Toft stated it appears to be a thorough deed restriction, as such documents go.

Commissioner McCluney provided the following comments:

- He changed his view on the easement and would move closer to Commissioner Deignan’s viewpoint.
- He discussed the Slope Use Permit Findings and stated 36 cubic yards of excavation and 124 cubic yards of fill was not a huge amount. He could make the findings.

Commissioner Heitkamp asked how much fill would be needed if they move the retaining wall back to the property line. She suggested that a stepped wall design be considered so that the easement could be used. Commissioner Young stated it would reduce the fill amount considerably. Commissioner Heitkamp stated there are options that would reduce the amount of fill and achieve the applicant’s goals.

Chair Stahl provided the following comments:

- He was thinking of splitting the difference between the two positions- building the wall on the property line vs. building the wall at the edge of the easement. They could build a wall half way in between the two. This would have the effect of reducing the amount of fill, reducing the height of the wall, and makes the Use Permit issues easier. Commissioner Young stated this would reduce the fill by about 60 cubic yards and reduce the wall height by about two feet.
- He was concerned about the maintenance and liability of the wall.

M/s, Heitkamp/McCluney motioned and the Commission voted 4-1 (Deignan voted no) to deny, without prejudice, SUP 06-64, 81 Via La Cumbre based on the comments made by the Commission and the inability to make Slope Use Permit Findings.

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

BUSINESS ITEMS

1. Election of Officers

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

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

Chair Heitkamp thanked Commission Stahl for his year of leadership and presented him with a gift.

2. Commissioner Reports

There were no reports.

3. Planning Commission Minutes of November 14, 2006

M/s, Young/McCluney motioned and the Commission voted 4-0 (Chair Stahl abstained) to approve the minutes of November 14, 2006 as submitted.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary