

LARKSPUR PLANNING COMMISSION
MEETING MINUTES OF DECEMBER 11, 2007

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

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

Staff Present: Nancy Kaufman, Planning Director
Neal Toft, Senior Planner
Anna Camarota, Assistant Planner

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- ? City Hall would be closed from December 24th through January 1st.
- ? The Oak Road Subdivision Improvement Agreement would be reviewed by the Council at the December 19th meeting. The Final Map is ready to be filed.
- ? The property owner of 1155 Magnolia Avenue (Corbett's Hardware) has submitted an application for a General Plan Amendment and Rezoning. This could open the property up for other uses.
- ? The City Council will elect a new Mayor at their meeting tomorrow night.
- ? Consent Calendar item #1 has been withdrawn and no action is necessary.

Commissioner McCluney asked for more information about the applications for Corbett's Hardware. Planning Director Kaufman stated the property where Corbett's is currently located is for sale and the business has been on a month-to-month lease for some time. The hardware store is interested in relocating.

Commissioner Young referred to the CLASP Subarea 3 (Niven property) development application and asked if the 2.79 acres included the dedication and lease option to the City. Planning Director Kaufman stated the developers have agreed to dedicate or donate the entire acreage.

APPROVAL OF CONSENT CALENDAR ITEM

1. **DR/V 07-68: 203 Madrone Avenue (APN 021-069-05). David C. Rutgers, applicant/property owner. Request for the following permits to allow exterior modifications and interior remodel to an existing non-conforming structure: (1) Design Review; and (2) Variance to increase height of the roof within the portion of the**

**structure that does not conform to the 5-foot side yard and 15-foot rear yard setbacks required by the governing R-1 Zone District Development Standards
Application withdrawn.**

- 2. DR 07-73: 28 Via La Brisa (APN 022-272-07). Constance Vandament, applicant/property owner. Request for Design Review approval to construct a 55 sq. ft. addition and 72 sq. ft. adjoining deck on the upper level of an approximately 2,680 sq. ft. two-story residence including attached garage.
Staff Recommendation: Conditional approval**

Chair Heitkamp noted that no action was required on item #1.

On the Consent Calendar, M/s, McCluney/Young motioned and the Commission voted 5-0 to approve DR 07-73, 28 Via La Brisa, subject to the findings and conditions set forth in the staff report.

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

PUBLIC HEARING ITEMS

- 3. SUP 07-65: 170 La Cuesta (APN 70-313-05). Debbie and Forrest Rhoads, applicants/property owners. Request for the following permit to amend approval DR/FAR/SUP/TR 05-42 for demolition of an existing single-family dwelling and construction of a 4,030 sq. ft. single family dwelling with an accessory patio, pool, and deck area, and removal of two heritage trees: Amend Slope Use Permit to allow 465 cubic yard (CY) of grading (205 CY of excavation and 260 CY of fill) where 400 CY of grading (180 CY of excavation and 220 CY of fill) was previously approved, including new fill and retaining walls in previously undisturbed slope area at the northwest portion of the property. This item was continued from the October 23, 2007 Planning Commission meeting**

Senior Planner Toft presented the staff report.

Chair Heitkamp stated maintaining and cleaning dissipaters could be a problem and she asked if this could be flagged in case there was a change in ownership. Senior Planner Toft stated the City has done as much as it can and the best solution is for the neighbors to work together to either create an easement or drainage system to convey the drainage in a more controlled manner. The public hearing process is an attempt to make people aware of these issues.

Chair Heitkamp opened the Public Hearing.

There was no public testimony.

Chair Heitkamp closed the Public Hearing.

Commissioner Deignan provided the following comments:

- ? The letter from the engineer states the risks have been mitigated.
- ? He is comfortable with the proposed remediation.

Commissioner Stahl provided the following comments:

- ? He could approve the application.

Commissioner Young provided the following comments:

- ? He agreed with the recommendations in the staff report.

Commissioner McCluney provided the following comments:

- ? This is a nice looking house.
- ? He could support the application.

Chair Heitkamp provided the following comments:

- ? The key issue was spreading the dissipaters so they covered a wider area.

Commissioner Stahl noted he and Commissioner Young were not present at the original hearing and did not listen to the tape of the meeting. He asked if they should abstain from voting on this item. Planning Director Kaufman stated that they should.

M/s, McCluney/Deignan motioned and the Commission voted 3-0 (Stahl and Young abstained) to approve SUP 07-65, 170 La Cuesta, based on the changes made to the application and subject to the findings and conditions set forth in the staff report.

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

4. **DR/SUP/FHE 07-52: 51 Hillcrest Avenue (APN 020-033-20 and -38). Nicole Roberts, applicant/property owner. Request for the following permits to allow approximately 1,165 sq. ft. of additions to an existing, approximately 2,648 sq. ft. single-family residence, and to maintain “as-built” fencing along the west (front) and north (left side) property boundary which attains maximum heights of 7 ½ feet above grade: (1) Design Review; (2) Slope Use Permit to allow 75 cubic yards of cut and 75 cubic yards of fill on a property with an average slope of 28 percent; and (3) Fence Height Exception for fencing that attains heights of 7.5 feet above grade where a maximum height of 3.5 feet is permitted within the front yard and a maximum of 6 feet is permitted within the side yard**

Assistant Planner Camarota presented the staff report.

Chair Heitkamp noted the Pittosporum hedge in the front yard was about 10 feet tall and she asked if the applicant would be required to trim it down to the maximum three-foot, six-inch height standard. Planning Director Kaufman stated technically it should be reduced to conform to the code. Although other approximately 8-foot high fences exist within the neighborhood, they are of limited length and/or consist of an open design. Approving the proposed Fence Height Exception would set a precedent for the neighborhood given the solid design and overall length of the fencing, which faces Hillcrest Avenue and extends the majority of the length of the front property line.

Chair Heitkamp opened the Public Hearing.

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

- ? The owner built the fence because all the fences in the neighborhood were of a similar height.
- ? A dog could jump over a 3 1/2 foot fence.

Ms. Nicole Roberts, applicant, made the following comments:

- ? She distributed some photographs to the Commission.
- ? She built the fence without a permit and now realizes it was a mistake.
- ? The fence is attractive and is consistent with other fences in the neighborhood.
- ? She listed some of the fence heights along the street.
- ? The fence is partially obscured because of the height of the Pittosporum.
- ? She needs a tall fence to provide privacy in this downhill yard.

Ms. Lynn McCarthy, Hillcrest Avenue, made the following comments:

- ? She lives next door on the uphill side.
- ? The applicant built a side yard fence (along the driveway) that is partially on her property rather than on the property line. The fence is staggered back and forth, half on her property and half on the applicant's property. Planning Director Kaufman stated that the submitted plans did not accurately depict the location of the fencing and staff did not realize this fence was on the adjacent property. The applicant could not build a fence on the neighbor's property since it could create a problem in the future. Ms. Roberts stated they came to an agreement about the location of the fence. Planning Director Kaufman stated Ms. McCarthy would need to grant Ms. Roberts an easement. Commissioner McCluney stated there were two options: grant an easement or move the fence. Commissioner Deignan asked if Ms. McCarthy could also sign the application for the fence. Planning Director Kaufman stated "yes". Ms. Roberts stated a fence line does not necessarily dictate where a property ends and this situation could be part of the disclosure for each home. Planning Director Kaufman stated Ms. McCarthy could sign the application for the Fence Height Exception and both property owners should record a survey accurately depicting the location of the fencing to put future property owners on notice that the fence is not on the property line.

Ms. Roberts made the following comments:

- ? She was red tagged for a retaining wall that does not exist. She has a permit to do the remodel work. She would like to get the red tag removed because she is having trouble finding a contractor who will work under the red tag. She drove all over Larkspur and did not see any other jobs with a red tag. Planning Director Kaufman stated the red tag was not relevant to this application but if the Commission wanted more information about the stop work order, staff would respond to Ms. Robert's statements. The Commission indicated that they would like to know more about the stop work order. Planning Director Nancy Kaufman explained that, during a site visit, staff spoke to the contractor who was putting in posts for a retaining wall that are not shown on any of the approved or proposed plans. Therefore, a stop work order was issued. The posts were removed but the holes remain; as documented by staff in recently taken photographs. The applicant denies that construction of a retaining wall had been started. In addition, the fence was built without a permit and excavation for the addition was started without a permit. The stop work issued applies to work that was being done without proper permits. Chair Heitkamp stated the red tag issue was not germane to tonight's application. Planning Director Kaufman noted there are fences along the street that may not have permits. The applicant's fence is quite different than the others and covers a longer frontage. It would set a precedent if approved.

Chair Heitkamp closed the Public Hearing.

Commissioner McCluney provided the following comments:

- ? He has no problem with the design of the house.
- ? He could approve the Slope Use Permit since the cut and fill was balanced.
- ? The front fence is not out of character with the others in the neighborhood.
- ? He could approve the Fence Height Exception.
- ? He could approve the application.

Commissioner Young provided the following comments:

- ? He agreed with the comments made by Commissioner McCluney.
- ? He could support the Design Review and Slope Use Permit applications.
- ? He is somewhat ambivalent about the fence height.

Commissioner Stahl provided the following comments:

- ? He agreed with the comments made by Commissioners McCluney and Young.
- ? The house addition is appropriate and reasonable for the site.
- ? He can make the Design Review and Slope Use Permit findings.
- ? The fence, in its context, is not unreasonable and he could approve the Fence Height Exception.
- ? The applicant's problems related to the stop work order are self-created.
- ? The issue regarding the adjoining fence was needlessly complicated and messy. However, they came up with a reasonable compromise.

Commissioner Deignan provided the following comments:

- ? He agreed with the comments made by the other Commissioners.
- ? The design of the addition was consistent with and blends well with the neighborhood.
- ? He has no problem with the Slope Use Permit application.
- ? He is a bit troubled by the front fence since this is an uphill house that is quite a distance from the road. He would like to see the fence lowered; however, he would support the Fence Height Exception based on comments from the other Commission members.

Chair Heitkamp provided the following comments:

- ? The Pittosporum is 10-feet high and the fence is behind it. She has no problem with the height of the fence.
- ? She has no problem with the design of the addition.
- ? She could approve the Slope Use Permit application.
- ? She noted they have come to an agreement regarding the adjoining fence.

M/s, Stahl/McCluney motioned and the Commission voted 5-0 to approve DR/SUP/FHE 07-52, 51 Hillcrest Avenue, subject to the findings and conditions set forth in the staff report and the following additional conditions: (1) Plans shall be revised to accurately depict the location of the fencing; (2) The common fence shall either be relocated on the property line or within the boundaries of the subject property, or the Fence Height Exception application shall be signed by the adjacent property owner to allow the staggered location crossing the boundary line; and (3) A survey showing the location of the fencing shall be recorded with the County of Marin to put future owners of each property on notice of the location of the fencing.

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

BUSINESS ITEMS

1. Election of Officers for 2008

The Commission presented Chair Heitkamp with a gift and thanked her for serving as Chair.

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

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

2. Commissioner's Reports

There were no reports.

3. Planning Commission Minutes of November 13 and 27, 2007

M/s, Young/McCluney motioned and the Commission voted 5-0 to approve the minutes of November 13 and 27, 2007 as submitted.

4. Cancel December 25, 2007 Planning Commission meeting; next regular meeting would be January 8, 2008

It was the consensus of the Commission to cancel the December 25, 2007 meeting.

The meeting was adjourned at 8:34 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary