

LARKSPUR PLANNING COMMISSION  
MEETING MINUTES OF MARCH 25, 2008

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

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

Staff Present: Neal Toft, Senior Planner  
Kristen Teiche, City Planner  
Ana Camarota, Assistant Planner

**OPEN TIME FOR PUBLIC EXPRESSION**

There were none.

**PLANNING DIRECTOR'S REPORT**

- Planning Director Kaufman is on vacation.
- At their last meeting, the City Council granted a three-year extension of the Use Permit for the Marin Rowing Association.
- He asked the Commission to think about the following potential Special Meeting dates for review of the Niven Property application: April 17<sup>th</sup> or April 24<sup>th</sup>.

**APPROVAL OF CONSENT CALENDAR ITEM**

There were no Consent Calendar items.

**PUBLIC HEARING ITEMS**

- 1. DR/FAR/SUP 07-78: 61 Meadowood Drive (APN 22-263-08). Wagstaff Architects, applicant; Mr. Ed Jamison, property owner. Request for the following permits to allow approximately 835 sq. ft. of additions to an existing single family residence, and an additional 516 sq. ft. of below grade basement that is not included in the floor area calculation: (1) Design Review; (2) Floor Area Ratio Exception to increase the FAR from .34 to .45 where .36 is permitted by code; and (3) Slope Use Permit to allow removal of approximately 155 cubic yards of earth below the residence, on a lot with an average grade of 14%. This item was continued from the February 26, 2008 Planning Commission meeting.**

Commissioner McCluney noted he was not present at the February 26<sup>th</sup> meeting but he studied the project and listened to the recording of the discussion.

City Planner Teiche presented the staff report.

Chair Young opened the Public Hearing.

Mr. Brock Wagstaff, architect, made the following comments:

- The revisions were in response to the Commissions' comments regarding the mass and bulk of the project. They also tried to keep the FAR in mind
- The basement was pulled back 2.5 feet.
- The dining room on the main floor was reduced by 2.5 feet, the family room by 2.0 feet, and the kitchen by 1'3" (on the north side).
- On the second floor, bedroom number two was moved over the garage. They pulled back the bedroom office by about 9 feet. They added two dormers for interest purposes.
- The revisions have moved some of the mass towards the front of the house and opened up the view corridor for the neighbor to the north.
- He reviewed the changes with the neighbors who had previously expressed concern. They were satisfied.
- The form of the house does not change whether the basement is counted or not.
- This is visually a .42 FAR house, and a .43 FAR if the basement is counted. Staff calculated the house at .45 FAR.
- He noted this was a flag lot and the house has much greater separation from other houses. The closest house is 33 feet (garage to garage). This works in favor of an FAR exception.
- The house at .42 FAR is consistent with the neighborhood.

Commissioner Stahl asked if Mr. Wagstaff's reference to the position of the house relative to the others in the neighborhood was based on his drawings. Mr. Wagstaff stated the lot feels much bigger due to its configuration. The closest house is 33 feet. Based on these facts, the findings could be made. Smaller sites traditionally have higher FAR's and they are not asking for anything out of the ordinary. City Planner Teiche stated the FAR on the applicant's data sheet is 43.2% and the addition of the additional basement area with the 6.9' ceiling heights would result in a .45 FAR. Mr. Wagstaff stated if those two spaces were left as crawlspace they would not count as FAR. If they were flattened out and used for storage with a 6'11" ceiling height they would still not count towards the FAR. That is what they are proposing. City Planner Teiche agreed that the basement was not the relevant issue.

Chair Young closed the Public Hearing.

Commissioner Stahl provided the following comments:

- This is the third time they have seen the proposal and the current one is a much more reasonable design approach.
- He has struggled with this project- it is attractive and well designed.

- The proposal is now more about the FAR and whether or not this is too much house on this lot.
- He agreed with Mr. Wagstaff- this lot has exceptional qualities relative to the pattern of lots around it. The house would have more “breathing room” due to the fact it is a flag lot and it would be pushed further back from the street. He was not sure this would justify a larger house.
- He wondered if it made sense to consider the entire lot given its configuration. He had questions about how other jurisdictions approach flag lots. City Planner Teiche stated the City of Palo Alto does not consider the dogleg portion of lots.
- This feels like a lot of house on the site. The amount of house currently on the site is appropriate.
- He appreciated all the work done by the applicant.
- He could not make the findings for the FAR exception.

Commissioner Deignan provided the following comments:

- He asked if the dogleg portion of the lot was included in the calculations. City Planner Teiche stated “yes” and added there were no provisions to exempt portions of an odd shaped lot.
- The initial application did appear as a three-story house with very prominent massing in the rear and towards the park. This has been addressed in part by shifting some of the mass over the garage.
- He noted the separation of the adjacent properties.
- He stated they have done what the Commission asked them to do.
- He acknowledged that the proposal does push the limits.
- He could support the project.

Commissioner Heitkamp provided the following comments:

- From a design point of view, this is an excellent way of mitigating the mass and bulk of the house.
- The project was reduced by only 45 square feet.
- The overwhelming view from the park has been mitigated by shifting some of the mass to the front.
- The FAR Ordinance was drafted to allow for moderate exceptions.
- The amount of square footage was too much for this small, constricted lot.
- This is a unique lot with a dogleg access and a sheer slope in the back.
- She had no problem with the construction that is being done under the house.
- She reiterated that her concern was with the intent of the FAR.
- The house would have an overwhelming appearance from the park.
- She could not support the project.

Commissioner McCluney provided the following comments:

- He stated he feels up to date on this project.
- They should consider discussions about tweaking the FAR Ordinance. There should be less gray area but they do need some “breathing room”.
- The applicant is not finding any loopholes but is utilizing the rules of the existing ordinance.
- The design is nice in terms of its shape and appearance and he could support the Design Review application. The house would be a reasonable addition to the community.
- He could support the Slope Use permit.
- There is no precise figure for the allowable FAR (.40, .42, etc.).
- The proposal is a reasonable architectural answer to the Commissions’ concerns.
- The project would not been seen from the front of the lot.
- There are no complaints from the neighbors.
- The applicant responded to the Commissions’ concerns.
- He is not overly concerned about the FAR.
- He could support the project.

Chair Young provided the following comments:

- He could support the application.

Commissioner Stahl provided the following comments:

- He referred to the philosophical side of the FAR issue and stated he starts with the following presumption: Why should it be bigger than it is? He does not start with: Have they reduced it enough? He stated the house was currently the right size given the configuration, steep slope, size, etc.
- He would prefer to see some extremely modest additions to this house.
- The FAR exception allows for something that is fundamentally above and beyond “as of right” development and applicants must prove the merits of the proposal.

Commissioner Heitkamp provided the following comments:

- She reiterated that the proposal was reduced by only 45 square feet.
- She has no problem with the below grade construction since visually it was already a part of the house.
- There are no precise numbers for the FAR exception but it should be within an acceptable range.

M/s, Deignan/McCluney motioned and the Commission voted 3-2 (Heitkamp and Stahl voted no) to approve DR/FAR/SUP 07-78, 61 Meadowood Drive, based on the comments made tonight and based on the findings and conditions set forth in the staff report.

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

## **BUSINESS ITEMS**

### 1. Discussion and direction regarding Code Enforcement Policies and Procedures

Assistant Planner Camarota presented the staff report.

Commissioner Heitkamp referred to Section 12.16.090 of the Heritage Tree Ordinance, “Penalties for Illegal Removal”, and stated it should include penalties for cutting the roots or poisoning trees.

Commissioner Deignan referred to the “agreement” form and on-site “kick-off” meetings used by other jurisdictions and asked about their effectiveness. Assistant Planner Camarota stated these methods were appropriate under situations when there were detailed issues that need to be clearly identified in the field, including projects where there were grading issues, work being done very close to tree roots, etc. This helps everyone to get “on the same page” and is not done on all projects. Commissioner Deignan stated a pre-job conference would set the ground rules and seemed like a worthwhile first step in the building process. Senior Planner Toft stated there is always an issue of trying to coordinate the meeting time with all the parties. Some projects do need to be flagged for an on-site meeting as it could very well save time in the long run on projects that, for whatever reason, get out of control. He noted that some projects in the past have gone awry as result of issuing permits in stages and the inability to maintain adequate oversight. Staff now works better to consolidate & coordinate all project permits together, so that there are no conflicts between various permits that are issued.

Commissioner McCluney stated the requirement for any new processing of applications should come at the discretion of the Planning Commission and not be required for all applications.

Chair Young stated the requirement for an on-site inspector could be at the discretion of the Commission with the cost borne by the property owner.

Chair Young asked about using a certificate of deposit as the mechanism for making sure the work get finished. Assistant Planner Camarota stated she was not sure about the details but the County often uses a bond to make sure work gets completed correctly. The problem with that method is that the City could end up being responsible for completion of the work if the applicant fails to follow through. Chair Young suggested the imposition of a hefty fine.

Commissioner McCluney referred to the amount of the fine and stated \$1,000 per tree was not enough. He suggested the following: 1) more thought to a larger fine; 2) the use of certificates of deposits would be appropriate; 3) written description attached to the plans might be going overboard; 4) requiring a form for changes was appropriate. They were on the right track.

Chair Young stated he noticed a lot of tree company trucks in town and he asked if they were aware that they needed to get a permit. He asked if action has ever been taken against a company for violating the ordinance. Senior Planner Toft stated the Parks and Recreation Commission has been reviewing the tree ordinance and they are recommending a more stringent set of penalties, such as restricting business licenses, etc. He stated it was self-regulating by way of complaints and most people are aware of the ordinance.

Commissioner Stahl stated a \$1,000 penalty for illegally removing a tree was just a slap on the wrist for developers. He suggested requiring a bond to replace trees. He liked Commissioner McCluney's suggestion that some of these requirements should be at the discretion of the Planning Commission. He referred to page 4 of the staff report, and suggested the following change in the last sentence in the middle paragraph: "..... proper authorization for the modification are obtain by the applicant *or else the modification would be required to be removed.*" He stated it felt like the stakes around town were getting higher and the ante should be increased on the enforcement side. Chair Young suggested a penalty equal to 10% of the value of the work.

Commissioner Heitkamp stated a lot of people were not aware of the penalties and this information should be flagged on the application. The public needs to be educated. Senior Planner Toft stated applicants are now required to print the conditions of approval page on the building permit plans. Commissioner Heitkamp stated that was a good idea and a penalty if they do meet the conditions.

Chair Young stated the City of Carmel requires contractors to stake trees during construction. Senior Planner Toft stated grading permits do include tree protection plans.

The Commission thanked staff for the report.

## 2. Discussion and approval of Planning Commission Operating Principles

Commissioner Heitkamp referred to page 2 of the Draft Principles of Operations, #3, "Relationship to the Press" and stated this should apply only to City policies and not something that is a part of the public record (her vote on a certain application, etc.). She stated she was not sure of the intent of this section. Commissioner McCluney agreed.

Senior Planner Toft stated the wording is a bit out-of-context and obviously the City Council speaks for the City as the highest representatives. He stated they could add a section (b) that states that Commission members may comment to the press after an action has been taken. Commissioner Stahl stated the wording could state that the Commission does not talk to the press about pending issues or applications. Commissioner McCluney stated there was no mention about speaking to the public, maybe that should be included.

Commissioner Stahl had some minor editing suggestions, particularly elimination of the word “gripes” to staff.

Commissioner Stahl referred to section 1. (d) and stated they should try to adjourn the meeting by 10:00 p.m. Commissioner McCluney disagreed and stated they should take as long as they need to conduct their business. They’ve often gone to 11:00 in the past, if needed.

Commissioner Heitkamp agreed with Commissioner Stahl that they get punchy after 10:00.

Commissioner McCluney felt the stated goal of 10:30 was reasonable.

Senior Planner Toft stated staff would submit the revisions to the Commission at an upcoming meeting.

### 3. Commissioner’s Report

There were no reports.

### 4. Approval of Planning Commission Minutes of February 26, 2008

M/s, Heitkamp/Stahl motioned and the Commission voted 4-0 (McCluney abstained) to approve the February 26, 2008 as corrected.

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Toni DeFrancis  
Recording Secretary