

M/s, Hartzell/Lundstrom and approved 5-0 to approve the Consent Calendar with corrections to the June 20th and July 18th minutes and an amendment to item #6, Exhibit B.

PRESENTATION OF RESOLUTION NO. 19/07, HONORING PHIL TERRY'S SERVICE ON THE LIBRARY BOARD

Mayor Arlas presented Mr. Phil Terry with the resolution and thanked him for his service to the citizens of Larkspur.

Marin County Supervisor Hal Brown presented Mr. Terry with a Certificate of Appreciation from the Board of Supervisors for his 35 years of service on the Larkspur Library Board. He stated the Board of Supervisors, in honor of Mr. Terry's service, would be donating \$5,000 to the Larkspur Library for future endeavors.

Mr. Phil Terry stated he was overwhelmed with the honor bestowed upon him by the Council. He thanked the City Council for letting him serve the citizens of Larkspur for so many years. He thanked all his friends and family for their support over the years.

The Council took a 15-minute break at 7:40 p.m. to enjoy some refreshments in Mr. Terry's honor.

The meeting reconvened at 7:55 p.m.

Councilmember Hillmer was excused from the remainder of the meeting due to a prior commitment.

CITY MANAGER'S ORAL REPORT

The City Manager reported the Council would hold a Special Meeting on Friday, August 17th at 5:00 p.m. to cancel the upcoming Council election. There are no challengers to Council incumbents Chu and Hartzell thereby saving the cost of an election. The Regular Meeting of September 5th has been cancelled due to the Labor Day weekend. She asked that the Council add the following urgency item to the agenda after Public Hearing item #2: Draft letter of Larkspur's comments regarding the College of Marin's Draft EIR. The comments are due by September 5th and the Council will not be meeting again before that date. Staff is recommending continuation of Public Hearing Item #3 to the Regular Meeting of October 3rd. The Council has expressed an interest in reviewing the fees for solar panels and staff would be bringing a proposal to the Council for their consideration at the October meeting. She introduced Ms. Anna Camaraota, the new Assistant Planner.

Councilmember Lundstrom asked about posting a summary of actions taken by the Council on the City Website. She stated she would like to discuss this further at a future meeting.

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Hartzell stated plans for the Centennial were coming along well and she asked everyone to think about how many people might be attending the March 1st Birthday Party. She stated they were planning on 1,000 people.

Councilmember Lundstrom stated the Transportation Authority of Marin (TAM) Bicycle/Pedestrian Committee would be reviewing grants from the State for bicycle/pedestrian projects. They would like to get more input and representation from pedestrians since most of the input has been from the bicycle community. She stated applications could be obtained from the Board of Supervisors and were due the first week of September. Mayor Arlas stated this information should be posted on the City Website.

PUBLIC COMMENT

Mr. Rick Adler, William Avenue, urged the Council to establish an Environmental Protection and Promotion Commission. The commission could work on a new Tree Ordinance and other environmental issues.

PUBLIC HEARINGS

1. APPEALS OF PLANNING COMMISSION CONDITIONAL APPROVAL OF APPLICATION DR/HAR/HT/SUP/V 07-26: PROPOSAL TO CONSTRUCT A NEW SINGLE-FAMILY DWELLING; JULIE & DAVID GULLEN/MARY DENTON & MONTE DEIGNAN, APPELLANTS; MICHAEL & JILL FOLK, PROPERTY OWNERS; 7 PALM COURT; AP# 021-233-05; R-1 DISTRICT

Councilmember Hartzell stated she must recuse herself since she lives within 500 feet of the project.

The Assistant Planner presented the staff report.

Councilmember Chu had questions about the qualitative factors that would allow for this type of deviation, including the unique character of the property. The Assistant Planner stated the site was very large (14,000 square feet) and the allowable FAR was very restrictive (850 square foot house with a 400 square foot garage). The project would reuse the existing building footprint on some existing graded areas while following the natural contours of the lot. Councilmember Chu stated the FAR, as written in the code, was for a specific purpose. This project was on a 43% slope and he asked what would make this property unique enough to allow for a tripling of the FAR.

The Assistant Planner stated it was similar to other properties that have been granted similar FAR Exceptions of this magnitude. The steep site restricts the allowable floor area and staff looks at how the particular development relates to the neighborhood. In this case, the setback on the west side is well over 100 feet and there is a large Heritage tree between the project and the home to the east. The project sits well below street level and there are several things about the site that warrant allowing additional floor area. Staff was also focusing on consistency with prior approvals for sites on steep slopes. Councilmember Chu stated some of those sites were approved prior to adoption of the current code and some of the larger FAR's on steep slopes tend to be on smaller properties. The Planning Director noted there have been recent approvals on large sites with larger FAR's. The Planning Commission looks at not only the lot but also the design and the attempt to minimize the bulk and mass of the project. The portion of the lot where the home would be located was relatively flat.

Councilmember Lundstrom asked if the project would be located 100 feet below the ridgeline. The Assistant Planner stated "yes". Councilmember Lundstrom asked how the ridgeline was defined. The Assistant Planner stated prominent ridgelines were mapped in the General Plan.

Mayor Arlas noted the garage was roughly at grade and he asked how the 100 feet was measured. The Assistant Planner stated staff measures the peak of the roof relative to the ridgeline. The requirement for a Slope Use permit would be triggered if this measurement were 100 feet. This project would require a Slope Use permit regardless due to the amount of grading.

Councilmember Chu noted there was 245 cubic yards of excavation and fill occurring and he asked how many dump trucks that would equal. The Assistant Planner approximated it would be about 40 dump trucks. Much of the cut would be reused as fill and there would be no off-haul. Councilmember Chu stated it appeared they would be redistributing the hillside and making a flat lot. The Assistant Planner stated there would be some additional cut for the larger building footprint and they would be working with the existing contour and filling in some lines and cutting in some other areas. There have been approvals, on other hillside sites, for up to 1,000 cubic yards of excavation and off-haul. This amount of grading is not out of line for a steep, hillside site. The amount of proposed excavation, on a site this large, does not mean a flat lot is being created.

Mayor Arlas opened the meeting to public comment.

Ms. Julie Gullen, appellant, stated the proposed project needs exceptions and variances because it is not in harmony or compatible with the existing neighborhood. She understood the desire to maximize the market value of one's biggest financial investment as well as the housing needs of modern day families.

She is concerned about the negative impact on the neighborhood and the entire Larkspur community. Her main concern is the prominence of what would be a three-story building on a lot with a 43% grade. The exceptions and variances required to build a three-story building should not be approved. Creating a third story on the ridgeline to accommodate parking is not reasonable or justified and it would make more sense to use the existing driveway. She was concerned about the amount of grading and the disturbance to the ridgeline and the Heritage Oak tree. She referred to the Slope Use Permit and stated the applicant was attempting to create outdoor recreational and living spaces that are consistent with flat lot development. The project should be designed to fit the site and not vice versa. This is a flat house design forced into a hillside lot. The project is not consistent with the General Plan in terms of maintaining existing neighborhood scale and limiting the visual bulk and mass. She noted there were eighteen families on record in opposition to the project.

Mr. David Gullen, Elm Avenue, stated he was not opposed to reasonable development or exceptions on a case specific basis. The exceptions requested by the applicant are unreasonable. He stated the Larkspur General Plan states that FAR's are intended "to regulate residential additions so that their size is consistent with the scale of development in individual neighborhoods while allowing reasonable expansion under certain conditions". This project does not meet the criteria.

Ms. Mary Denton, Elm Avenue, appellant stated the decision was based on subjective considerations. There is nothing wrong with the building looked at in a vacuum but many things wrong with trying to place this building on this site. The findings could not be made. She disagreed with the assertion by the applicant that mass reducing techniques have been used. The development has three stories, higher than normal plate heights, multiple living areas, etc. There is no site related justification for building a house this large and the structure ends up overbuilding the lot by an unreasonable amount with an FAR that is three times what is allowed. The design is not sensitive to the neighbors and is not compatible with the overall neighborhood character. The proposal goes against the Slope and Hillside Ordinance due to the excessive grading needed for the house size and the applicant's desire for a level lawn as opposed to elevated decks. The proposal would impact the ridgeline views from Pepper Avenue. The overall effect of the development including the retaining walls does not minimize the affect on the environment as required by the ordinance. The proposal is an attempt to build a large, flat lot home on a steeply sloped lot. The removal of the Heritage Tree is unnecessary and is the result of the siting of the garage. There are other possible garage locations. This project would set a bad precedence and there are no objective justifications for granting the FAR and related exceptions.

Mr. Monte Deignan, Elm Avenue, appellant, stated he is concerned about the importance of this decision as it relates to what may happen on this hillside and other hillsides in Larkspur. Palm Hill is visible from all of the community and is high profile. The early staff reports identified the project as being overbuilt and that it needed to be reduced. There were very modest reductions in the FAR that have not gone far enough. He discussed comparisons to adjacent lots and stated some were flat lots with high FAR's. He stated the applicant "cherry-picked" the data and the comparison was "apples to oranges". This project would become the "high water mark" and it would be difficult to reject other proposals of a similar nature. The Slope and Hillside Ordinance has served the City well and projects should conform to the standards.

Mr. Michael Folk, applicant, stated the FAR ratio survey was required by the Planning Department and was an average of the surrounding area. He did not "cherry-pick" information. He thanked the Planning Department and Planning Commission for their thorough review and hard work on the application. He is pleased with the resulting home that has emerged from the planning process that took into account the comments from staff, the Planning Commission, and neighbors. The project integrates well into the site and has minimal impact on neighbors and the neighborhood. The Planning Commission praised the project for its "good design" and called the square footage "reasonable". They have support from five of the seven neighbors that border the site. Staff noted the residents to the east could not see the story poles and there would be no impact on their views. Staff also noted there would be no significant impact on light, air, view or privacy from 26 Elm Avenue. Three of the five homes on Palm Court are larger than this proposal. He urged the Council to uphold the Commission's unanimous approval of the project.

Ms. Meredith Pechoultres, Palm Court, stated she lives across the street from the proposal. She also spoke on behalf of the owners of 5 Palm Court. She stated Palm Hill was well established and made up of unpretentious homes in an extraordinary environment. She supported the concept of a "green" project but noted the approved design was out of character for the neighborhood. The applicant is trying to make the "hill fit the house" rather than the "house fit the hill". Extensive excavation and re-contouring could be avoided by using the existing home as a basis for any new development. She would welcome a modest "green" home on the flat area using the existing driveway. A smaller home would be more environmentally sensitive.

Mr. James Holmes, Madrone Avenue, stated the problem could be summed-up with the following five words: "Big industrial building residential neighborhood"- exactly what Design Review and the FAR were intended to prevent. He asked the Council to consider the posture of the Planning Commission- two members opposed the project, one member appealed the project, and a third member who seemed to oppose the project but voted in favor of it. He asked the Council to consider the number of neighbors opposed to the project.

He noted the staff report indicated that FAR's of this magnitude have been approved in the past so the precedence has already been set. He discussed the "old timers" view of the slightly more aggressive and confrontational nature of some of the newer residents. This building "punches the neighborhood in the nose". He stated the applicants played a "numbers game" with the Commission and the changes made merely "nibbled around the edges".

Ms. Helen Heitkamp, Elm Avenue, stated she was speaking as a resident of Palm Hill. She agreed with many of the comments made and expressed the following concerns: 1) the FAR is contrary to the intent of the ordinance; 2) the design program is not compatible with the site; 3) the Slope Ordinance findings could not be made because of the size of the building. The intent of the FAR Ordinance was to control the bulk of structures and to avoid overbuilding on the site, particularly on steep, substandard lots. There was much discussion about using a variance procedure vs. an exception procedure and they decided on the latter to allow for a modest expansion of a home. Tripling the allowable square footage, on a steep, substandard lot, is not a modest amount. Exceptions that have been granted have either been in isolated locations or within the existing footprint of the house. The crux of the problem with this project is the location of the garage. There is a level, flat pad on the site and an existing driveway that should be revamped and used. This would eliminate the need to remove the Heritage Oak tree. She was concerned that approval of the project would raise the "FAR bar" and set a precedence.

Mr. Rick Adler, William Avenue, complimented the applicant for the use of "Green building" techniques and stated every effort should be made to give him a break.

Ms. Kathy Hartzell, Loma Vista Avenue, stated she was speaking as a citizen of Larkspur. She agreed with many of the comments made by the appellant and neighbors. She is not against a modern, edgy design. She is concerned because the project makes a travesty of "green building" and the FAR processes. One must make compromises when building on a hillside. It would be far more "green" to develop within the natural limitations of the lot and use and modify existing cut and fill. The façade on the south side would be visible from many vantage points. The use of solar was admirable and commendable. The project would pose a "lantern effect" across the area and serve to exacerbate the effects of such a large building. This might not be the appropriate site for such a large building program and plan that includes nine to ten foot ceiling heights, large bedrooms, a den and recreation room, au pair space, etc. She noted there was almost 400 square feet underground that was not counted towards the FAR.

Mr. Folk stated they looked at many different garage locations including using the existing driveway. He stated it was, on balance, a 27% average gradient and the City allows a 12% maximum gradient. It is single lane and would require a turnaround at the bottom.

The cut coming out of the house would be balanced with the fill and would bring the house down so it does not stand out as prominently. The majority of the house would not be seen from any vantage point. The Oak tree that would be removed accounts for only 2% of the Oak grove canopy. The house is 3,155 square feet and is typical of many of the homes approved in the area and is in no way redefining the neighborhood.

Ms. Mary Denton stated there was no justification for three times the allowable FAR. She stated there would be no way to turn down similar applications in the future.

Mr. Monte Deignan stated the early staff reports noted the project was too big and the total reduction was only 300 square feet. This is not a significant compromise given all the concerns. The project is trying to look like a "flat lot" given the amount of terracing and lawn space. They have made some progress but they need to make more.

Mr. David Gullen read a letter from John and Elizabeth Fish, Pepper Avenue, in support of the appeal.

Mayor Arlas closed the meeting to public comments.

Councilmember Lundstrom stated the question before the Council was whether or not the findings could be made. She acknowledged that this is a large house. She referred to the development review checklist provided by staff and noted the existing house, which sits on a benched out lot with retaining walls, has a .10 FAR. The proposal is for a .22 FAR, or twice the size of the existing house. She stated the staff survey of FAR's within 300 feet noted that approximately one-third of the homes were at or about 3,000 square feet. She walked the site and could understand why the applicant did not want to use the existing driveway and how the cut and fill would be used on the site. She stated this was a reasonable proposal. She looked carefully at the story poles and noted the house was "benched down" from the street itself and the proposed garage would be lower than the garage next door. This is an existing site and they need to take each proposal on a case-by-case basis. She could make the findings for the proposal and could uphold the Planning Commission decision.

Councilmember Chu stated there were two diametrically opposed keys issues: whether or not this would set a precedent and trying to make a determination based on the unique characteristics on a case-by-case basis. He noted one of the difficulties with looking at Larkspur's Municipal Code was how to view FAR's and the process for exceptions. He discussed the survey regarding the comparisons of lot size and FAR's and noted there were other characteristics that should be taken into account. He was looking for a justifiable reason to grant this particular exception in this magnitude of difference from the statutory requirements.

He stated they have stretched the precedent issue too far and they need to put a halt to it. He noted the Planning Commission had the following initial concerns: wrong location for the garage, stay off the ridgeline, mass and bulk, visual impacts, the way the project sits on the site, overall size excessive, second story blocks views of trees and ridgeline, no justification for removing Heritage trees. He noted sometimes the first impression is the best one. The applicant's attempts to mitigate the negative impacts were somewhat marginalized and did not create enough of an improvement to provide those mitigations and to put it in a category of justifiable. He could not make the findings for the FAR or the Slope Use Permit (due to the amount of grading) and felt the Heritage Tree situation was avoidable. He could make the findings for the parking and related setback variances.

Mayor Arlas stated he has a lot of respect for the Planning Commission but he is troubled when the Commission is reduced to three members, with the two recused members speaking in opposition to the project. He noted the project was either twice or three times the allowable FAR and he was concerned about "FAR creep". He was leery about staff's comments regarding similar projects being approved and noted the Council does not review most of these proposals. He had some problems with the findings made by the Commission and in particular the Design Review Finding relative to "compatibility with the neighborhood". The modern design was lovely but did not fit in with the surrounding neighborhood. He noted the proposal includes a lot of extra space, including two family rooms, and felt there was unnecessary extra square footage. He agreed with the comments made by Mr. Holmes and stated the applicant simply "nibbled" at the size of the proposal and did not significantly address it. He would be in favor of upholding the appeal.

M/s, Chu/Arlas and approved 2-1 (Lundstrom no, Hartzell recused, and Hillmer absent) to grant the appeal, without prejudice, and overturn the decision of the Planning Commission.

The Council took a 10-minute break at 9:20 p.m.

The meeting reconvened at 9:30 p.m.

Councilmember Hartzell returned to the dais.

M/s, Hartzell/Lundstrom and approved 4-0 (Hillmer absent) that the following item is of an urgent nature and the need to add it to the agenda arose subsequent to the posting of the agenda: "Larkspur's comments in response to the College of Marin Draft Environmental Impact Report".

M/s, Hartzell/Lundstrom and approved 4-0 (Hillmer absent) to add the following item to the agenda as Business Item #2: "Larkspur's comments in response to the College of Marin Draft Environmental Impact Report".

2. a. INTRODUCE AND WAIVE FIRST READING OF ORDINANCE NO. 959, AMENDING CHAPTER 18.31, AFFORDABLE HOUSING FUND AND INCLUSIONARY/IN-LIEU FEE REQUIREMENTS, TO CLARIFY THAT THE MEDIAN INCOME USED FOR IMPLEMENTATION OF CHAPTER 18.31, AFFORDABLE HOUSING FUND AND INCLUSIONARY/IN-LIEU FEE REQUIREMENTS, IS THAT DEFINED AND PUBLISHED BY THE MARIN COUNTY HOUSING AUTHORITY

- b. ADOPT RESOLUTION NO. 22/07 ESTABLISHING INTENT TO ADOPT AN AFFORDABLE HOUSING IN-LIEU FEE PURSUANT TO SECTION 18.31.040F OF THE LARKSPUR MUNICIPAL CODE (LMC) CHAPTER 18.31, AFFORDABLE HOUSING FUND AND INCLUSIONARY/IN-LIEU FEE REQUIREMENTS

The Planning Director presented the staff report.

Councilmember Chu stated they need to make sure that the numbers Marin Housing ends up using would pass some sort of “reasonableness” test. He discussed the HUD numbers and stated they do not seem to make sense.

Mayor Arlas opened the meeting to public comments.

Mr. Michael Hooper, representing Campus Properties, stated he supported the use of the Marin Housing numbers. This fixed the problem but he felt that Larkspur should be deciding on what numbers to use as opposed to the other way around.

Ms. Lisa Mayley, representing John Laing Homes, stated they were pleased with the progress made by staff and supported the HCD numbers. She referred to Ordinance No. 959 and would prefer that the wording stated that the City of Larkspur sets the income limits and definitions in consultation with Marin Housing. She referred to recalculation of the in-lieu fee and asked that the housing costs are consistent with the ordinance.

Mayor Arlas closed the meeting to public comments.

Councilmember Hartzell stated she would be more comfortable with the wording suggested by Ms. Mayley. The Planning Director stated she viewed Marin Housing as an extension of staff and they are the experts in the field. They also need consistency between jurisdictions. Staff would feel more comfortable allowing Marin Housing to make the determination in consultation with staff.

M/s, Chu/Lundstrom and approved 4-0 (Hillmer absent) to introduce and waive first reading of Ordinance No. 959.

M/s, Lundstrom/Hartzell and approved 4-0 (Hillmer absent) to adopt Resolution No. 22/07.

3. ADOPT RESOLUTION NO 27/07 APPROVING DESIGN REVIEW AND REMOVAL OF HERITAGE TREES ON SITE OF PROPOSED TWIN CITIES POLICE FACILITY AND CITY OF LARKSPUR CORPORTION YARD; 250 DOHERTY DRIVE (AP #22-120-07 & 12); TWIN CITIES POLICE AUTHORITY AND CITY OF LARKSPUR, APPLICANTS; CITY OF LARKSPUR PROPERTY OWNER; R-1 ZONING DISTRICT AND PUBLIC FACILITIES AND PARK LAND GENERAL LAND USE DESIGNATION (DR/UP/HT/ER 06-69). A NEGATIVE DECLARATION HAS BEEN APPROVED FOR THIS PROJECT

M/s, Hartzell/Lundstrom and approved 4-0 (Hillmer absent) to continue this item to the October 3, 2007 Council meeting.

BUSINESS ITEMS

1. ADOPT RESOLUTION NO. 28/07, AUTHORIZING THE CITY MANAGER TO SIGN THE PROFESSIONAL SERVICES CONTRACT WITH PB AMERICAS FOR DESIGN AND ENVIRONMENTAL WORK ON DOHERTY DRIVE BRIDGE, BON AIR BRIDGE AND ALEXANDER AVENUE BRIDGE

The City Manager presented the staff report.

Councilmember Hartzell had questions about the termination of the prior contract with Wood Rodgers and how that would affect future costs, in particular for the Alexander Bridge. The City Manager stated the preliminary engineering and design costs have changed more as a result of the Bon Air Bridge and are construction related. The Wood Rodgers contract was intended to handle renovation, and not full replacement, of the bridges. The lead engineer subsequently left the firm of Wood Rodgers. All of the product performed by Wood Rodgers remains in the possession of the City and would be transferred to the new relationship.

Councilmember Lundstrom asked for an update on the timing of the work after the contract gets signed.

Mayor Arlas asked if the Bon Air Bridge would be replaced or rehabilitated. The City Manager stated it would be replaced.

M/s, Lundstrom/Chu and approved 4-0 (Hillmer absent) to adopt Resolution No. 28/07.

2. LARKSPUR'S COMMENTS IN RESPONSE TO THE COLLEGE OF MARIN DRAFT ENVIRONMENTAL IMPACT REPORT

The Planning Director presented the staff report.

Mayor Arlas asked if Larkspur's Road Impact Fee would apply to this project. The City Manager stated most of the project was not in Larkspur's jurisdiction. Mayor Arlas stated they were hauling materials on Larkspur streets and parking on City streets. The City Manager stated she would ask City Attorney to review whether or not they could be charged a fee.

Councilmember Hartzell stated they could be made to use Sir Francis Drake Boulevard and College Avenue and not Bon Air Bridge.

The Planning Director stated one of the mitigation measures in the EIR was a Construction Management Plan. She noted she spoke to Twin Cities Police Chief Green about the potential for an increase in calls due to possible vandalism of the construction trailers and materials storage.

Councilmember Lundstrom stated she was concerned about the stockpiling of materials between the sidewalk and fence areas. She was also concerned about construction hours and the proximity of the residential neighborhood. The Planning Director noted there was a conflict in the construction hours listed in the EIR. Councilmember Hartzell stated it was unlikely they would work on weekends.

Mayor Arlas was concerned about the possibility of stockpiling materials near the wetlands.

Councilmember Lundstrom noted the College Park residents were concerned about what happens to the parking lot near the gymnasium.

M/s, Lundstrom/Hartzell and approved 4-0 (Hillmer absent) to authorize the Planning Director to send the letter approximately one week after incorporating the Council comments.

ADJOURN MEETING

The Mayor adjourned the meeting at 9:55 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary