

LARKSPUR PLANNING COMMISSION  
REGULAR MEETING MINUTES OF SEPTEMBER 25, 2018

The Larkspur Planning Commission was convened at 7:00 p.m. in the Council Chambers by Acting Chair Ziesing.

Commissioners Present: Acting Chair Todd Ziesing, Daniel Kunstler, Laura Tauber,

Commissioners Absent: Chair Deignan, Ignatius Tsang

Staff Present: Planning Director Neal Toft  
Senior Planner Kristin Teiche  
Assistant Planner Nicholas Armour

### OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

### PLANNING DIRECTOR'S REPORT

- The General Plan Steering Committee met last week to discuss community character. The discussion included Design Review Standards, heritage preservation, archeological preservation, improvements to the downtown streetscape, and other items. The committee will meet again on October 30<sup>th</sup> to discuss open space and natural environment and resources issues.
- Last week the Council adopted an ordinance prohibiting advertising of unlawful or unauthorized uses within the City. Staff had proposed this as a way to manage unauthorized short-term rentals. It can also apply to other commercial uses in neighborhoods. Commissioner Kunstler asked for a definition of advertising. Planning Director Toft stated there was a somewhat broad definition in the ordinance. Commissioner Kunstler asked about free speech rules. Planning Director Toft stated commercial speech is not protected in the same way. The issue has been reviewed by the Town Attorney.
- The October 9<sup>th</sup> meeting might need to be cancelled due to the lack of a quorum. A Special Meeting might need to be scheduled. He will keep the Commission posted.

### PUBLIC HEARING ITEMS

1. **DR/FAR/SUP #18-33: 7 Palm Court, Larkspur (APN 021-223-05); Michael Yandle, applicant, Palm Court Trust, Leonard Rifkind, Trustee; R-1 (First Residential) Zoning District. Applicants are seeking approval of the following permits to allow for the construction of a new partially-in-ground pool in the rear of the yard, site work, and an enclosed changing room on a 14,516 square foot parcel: 1) Design Review; 2) Floor Area Ratio (FAR) Exception to permit adding 36 square feet of new floor area and an FAR of 0.21, where 0.07 is the maximum permitted by code; and 3) Slope Use Permit (SUP) to permit 109 cubic yards of grading (73 cubic yards of excavation and 36 cubic yards of fill) on a lot with an average grade of 43%.**

Assistant Planner Armour presented the staff report.

Commissioner Kunstler asked if staff was suggesting that the pool could be angled differently. Assistant Planner Armour stated "yes".

Commissioner Kunstler referred to the Design Review Findings, (F) Green Building, and asked if the code addressed new pools. Assistant Planner Armour stated the code was silent with respect to new pools.

Acting Chair Ziesing opened the Public Hearing.

Mr. Michael Yandle, landscape architect, made the following comments:

- All of the findings can be made for approval of this project.
- He would be happy to answer any questions.

Commissioner Kunstler asked if they would be willing to reorient the pool. Mr. Yandle stated this is a considered site plan that responds to the geometry of the house. It strives to stretch that geometry out onto the site in a linear fashion. If they picked an arbitrary angle to set the improvements it would be an inferior design concept with minimal benefits.

Commissioner Kunstler stated the Commission often looks for some type of “give-back” when considering granting a Variance. He asked how the pool was heated. Mr. Yandle stated it will be set up for solar but heated by a gas heater.

Ms. Linda Dennis, Elm Avenue, made the following comments:

- She lives below the property.
- She has concerns about the pool.
- There are three switchbacks in her back yard that have significant erosion coming from above.
- She asked what happens when there is a leak or malfunction in the pool.
- This house has already exceeded the FAR and is already over-developed- what is the purpose of Zoning Laws?

Mr. Michael Yandle, landscape architect, made the following comments:

- They are improving the drainage. The site currently drains thorough a series of unsupported walls.
- Installing the side walls will benefit the bio-retention.
- He discussed the drainage and noted they plan to dissipate out onto the site.
- The civil engineer has done the calculations and has determined there would be no increased flow off of the site onto adjacent properties.

Rodrigo, one of the owners, made the following comments:

- The home currently has solar panels that are being used for the radiant floor heating system.
- He pointed to a dissipater that was being expanded

Acting Chair Ziesing closed the Public Hearing.

Commissioner Tauber provided the following comments:

- She liked the design a lot.
- She can make the Design Review Findings.
- She understood the proposed orientation of the pool to the house. Putting it on an angle would look strange.
- The additional 36 square feet was for a changing room that nobody will see. She could support the FAR Exception.
- They will need to move some earth around to build the project. She could make the Slope Use Permit Findings.

Commissioner Kunstler provided the following comments:

- He agreed with the comments made by Commissioner Tauber.
- He understood what the applicants were trying to accomplish.
- He could make the Design Review and Floor Area Ratio Exception Findings.

- The slope was previously disturbed to some extent. They are terracing, and not eliminating, the slope. He could make the Slope Use Permit Findings.

Acting Chair Ziesing provided the following comments:

- He agreed with the comments made by the other Commissioners.
- The additional 36 square feet would not add bulk to the site. He could make the Floor Area Ratio Exception Findings.
- The design is well thought-out and makes a strong attempt to fit in. He loves the symmetry of the way the pool aligns to the house.
- This is a pretty stable area and the retaining wall is failing. The proposed drainage would be an improvement. He could make the Slope Use Permit Findings.
- He could support the removal of the tree.
- The pool will not be highly visible and will be screened by plantings.

M/s, Tauber/Kunstler, motioned and the Commission voted 3-0-2 (Chair Deignan, Tsang absent) to approve DR/FAR/SUP #18-33, 7 Palm Court, subject to the findings and conditions set forth in the staff report.

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

The Commission took a 5-minute break at 7:30 p.m.

- 2. LLA/V #17-35: 195 Marina Vista Avenue and 30 Chevy Chase Court, Larkspur (APN 021-152-21 and 24); Michael Johnson, applicant; Michael Johnson and Erin Chun, property owners R-1 (First Residential) Zoning District. Applicants are seeking approval of a lot line adjustment to transfer an equal amount of land between two steeply sloped, legal lots of record to reconfigure the shape and boundaries of the two properties in question. The proposed lot line adjustment is intended to correct encroachments of private improvements for 195 Marina Vista Avenue onto a portion of 30 Chevy Chase. Due to the unusual, non-rectangular shape of the resulting lots, the applicants are requesting a variance to the parcel configuration requirements of Section 18.16.085 A. and B., requiring that property lines have, to the extent practicable, a regular, unbroken alignment and maintain a rectangular shape.**

Planning Director Toft stated Lot Line Adjustments involve two property owners and require authorization of two property owners to process. Staff had authorization of the property owners, went through a long process of reviewing the application, sending out a public notice, and setting the hearing date. However, staff was just presented with a letter from one of the property owners (30 Chevy Chase) who wishes to withdraw the application. This puts the application in jeopardy of being valid.

Mr. Chris Skelton, representing the property owner of 195 Marina Vista, made the following comments:

- They were just handed the letter.
- This is a unique set of circumstances.
- There is merit in moving forward.
- He suggested two alternatives. The first is to proceed with the public hearing and render a decision on the merits of the application conditioned upon the seemingly withdrawing party re-consenting.
- They processed an application in good faith. It has been deemed complete, has been noticed, and there has been a great deal of work put into reviewing the application. It would be short-sighted to throw all of this away.

- In the alternative, there are two, distinct decisions that they are asking the Commission to make. One is a lot line adjustment, which is a ministerial action, and the other is a Variance to parcel configuration requirements (Code Section 18.16.085 A. and B.).

Commissioner Kunstler stated his understanding is that the two issues were intertwined and inseparable. He asked staff if there was a legal opinion on whether or not they could proceed without contravening some other rule. He was not sure they could make a decision on an application that might not be an “application” since one of the applicants has withdrawn.

Planning Director Toft understood his point and agreed. A lot line adjustment is typically done as a ministerial process rather than an action. It enables two property owners, through the City, to adjust their lot lines. This application is before the Commission because of the Variance- a Variance for the lot line adjustment. There is no opportunity for a legal opinion whether hearing the application is a violation of any sort- it may not violate any rights to render an entitlement that they may or may not exercise. It may be preferential to render a decision or the “application” could be continued to see whether or not the property owner changes his mind. The City is findings itself in the middle of a property negotiation and he would like to conclude the matter at hand. Taking this action does not actually create the lot line adjustment. The two parties have to prepare the final documents and record it. He is not comfortable with continuing it.

Commissioner Tauber stated she did not feel comfortable hearing the item if the other property owner has withdrawn.

Acting Chair Ziesing agreed- they need both applicants to fairly hear the proposal. The Planning Department has been very clear about what it will support and won’t support. He was also uncomfortable with the fact that there were only three Commissioners at tonight’s meeting- he would like a full Commission for something that needs a broader discussion. The outstanding questions regarding CEQA also need to be settled. He is not comfortable making any judgments tonight.

Planning Director Toft stated the Variance was tied to the unique configuration of the lots proposed. Other configurations have been discussed which staff may approve at a ministerial level. Staff does not need guidance on other arrangements.

Planning Director Toft suggested the Commission accept the withdrawal, consider the application closed, and take the item off of the agenda.

Mr. Johnson made the following comments:

- He asked for a substitute motion since there were fees associated with the permit.
- He would prefer that the Commission continue the application indefinitely or to a date uncertain.

Vice Chair Ziesing stated there was no application since one of the applicants has withdrawn. The City has expended a lot of resources. He suggested Mr. Johnson work it out with the other property owner.

M/s, Kunstler/Tauber, motioned and the Commission voted 3-0-2 (Chair Deignan, Tsang absent), to remove from consideration LLA/V #17-35, 195 Marina Vista Avenue and 30 Chevy Chase Court, and acknowledge that the application has been withdrawn.

Acting Chair Ziesing noted there was no appeal period.

## **BUSINESS ITEMS**

### 1. Commissioners Reports

There were no reports.

2. Approval of minutes of Planning Commission meeting on September 11, 2018

M/s, Tauber/Kunstler, motioned and the Commission voted 3-0-2 (Chair Deignan, Tsang) to approve the minutes from the September 11, 2018 meeting as submitted.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Toni DeFrancis,  
Recording Secretary

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Larkspur Planning Commission on November 13, 2017.



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Neal Toft, Planning Director