

**FINAL MINUTES
REGULAR PLANNING COMMISSION MEETING
APRIL 8, 2008
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Bruce K. Mace
Commissioner Sloan Bailey
Commissioner Richard Esteb
Commissioner Patrick Pagnillo

STAFF

PRESENT:

Bob Pendoley, Planning Director
Dan Bell, Senior Planner
Larissa Roznowski, Associate Planner
Joanne O'Hehir, Minute Recorder

1. OPENING

B. Call to Order

C. Pledge of Allegiance

D. Roll Call

All Commissioners were present with the exception of Commissioner Schwartz.

2. PUBLIC COMMENT

Vaso Medigovich commended the Commissioners on their beneficial impact on the Town. He said he had been involved in flood control issues, and that the house at 156 Birch, which is next door to his home, is a very good home thanks to the Commission.

3. CONSENT CALENDAR None.

4. CONTINUED HEARINGS

- A. 219 MORNINGSIDE DRIVE, DESIGN REVIEW APPLICATION NO. 07-045 and VARIANCE NO. 08-002, ROBERT AND KRIS CARLYLE (OWNERS), MICHAEL J. HARLOCK ARCHITECT) – To allow expansions to this three-story single family residence. A Height Variance and Floor Area Ratio Variance are requested. (Zoning: R-1, Medium-Density Residential District; Christmas Tree Hill Overlay District) (Planner: Dan Bell)**

Senior Planner Bell used a slide presentation to provide background information on the project. He noted that height and rear yard variances are still being requested, and that

additional plans addressing landscaping and decking have been provided to analyze the impact of the project on the adjacent neighbors at 122 Crescent Road.

Mr. Bell said that the Commissioners should review the plans and determine if adequate changes have been made to approve the project, noting that a Resolution has been provided should they wish to approve the project.

In response to Commissioner Bailey, Mr. Bell said that the design had been reduced in order to comply with Floor Area Ratio (FAR) rules.

Michael Harlock, project designer, said that they have addressed the Commissioners' request to mitigate the visual impacts of the project, particularly concerning the owners of 122 Crescent Road. A fence has been added to provide screening from the lower floor. Vines will provide further screening along the lattice portion of the fence, and pear trees will be planted after the building work has been completed. Mr. Harlock noted that the construction fence has been moved to the property line.

Commissioner Bailey, the Chair and staff discussed the staff report and mitigation methods.

Commissioner Pagnillo said that the applicants have provided solutions to the concerns raised at the prior meeting, and that the design is a great improvement on the original plans. He does not condone the further expansion of the project, but believes that the best net result has been achieved.

Commissioner Esteb remains concerned that additional space was added without prior approval; that the directions of the previous hearing in 2004 have been disregarded. However, he likes the design and supports the roof variance and landscaping plans that mitigate privacy issues.

Commissioner Bailey said that the applicants appear to have complied with the direction given at the last meeting of providing mitigation measures.

Chair Mace said that this is a new application and clear direction was provided at the last meeting. However, he remains concerned that the stairs and lower deck extend the dwelling well beyond the 18" extension that is requested, and noted that he has never favored methods to mitigate the effects of the deck, which he does not believe should have been added.

Discussion followed on the way forward. Mr. Harlock explained how they had arrived at the present situation, noting that the current design is an improvement on the original design, and that they have done all that was asked of them at the last meeting.

Chair Mace said that he would not have approved the increase in mass at the original hearing; however, it is a better project and the neighbors' letters suggest that they want the project to be completed.

Commissioner Bailey said that findings for the variances can be made and that the solutions seem practical.

MOTION: Moved by Pagnillo, second Bailey and passed, with Esteb against, to approve Design Review Application No. 07-045 and Variance No. 08-002 to allow expansions to a three-story single family residence at 219 Morningside Drive, with the inclusion of the new landscaping plan.

Planning Director Pendoley read the appeal rights.

5. NEW HEARING

A. 50 LAKESIDE DRIVE, MODIFICATION TO DESIGN REVIEW APPLICATION NO. 07-016 and VARIANCE NO. 07-008, ED AND STACEY CONTI (OWNERS), MARTY ZWICK, A.I.A. (ARCHITECT) – To allow construction of a two-story residence with lot coverage and setback variances. (Zoning: R-1, Medium-Density Residential District; FEMA-designated Special Flood Hazard Area) (Planner: Dan Bell)

Senior Planner Dan Bell used a slide presentation to introduce the staff report, for which he provided background information on the project. Mr. Bell noted that the project was originally approved by the Planning Commission with the condition that the highest peak of the roof should not exceed 23'-2".

The property is located within the FEMA-designated Special Flood Hazard Area and the Public Works Department is responsible for issuing a Floodplain Development Permit to ensure compliance with the conditions of the SFHA. At the time of permit issuance, based on the information provided by the applicants, it was determined that the project did not exceed 50% of the assessed value of the existing building and, therefore, the building did not need to be raised approximately 4' above the base flood elevation.

However, it was observed when construction had begun that the residence had been demolished and would, therefore, need to comply with SFHA rules and be raised above the flood plain. The applicants have submitted a new design, and Mr. Bell noted that the roof peaks have been reduced and the ceilings lowered, although the overall height exceeds the previous Design Review approval by 3 feet at the highest roof peak.

Mr. Bell noted that substantial landscaping exists, and mature trees obstruct the views of some houses in the neighborhood. However, there is a potential view impact of the project on the neighbors across the street. Mr. Bell explained why sunlight and privacy issues are minimal, which is partly due to the second story walls being set back from the first floor.

Mr. Bell explained how the site plan has been affected by the new changes, and that staff recommends the Design Review for the swimming pool and hot tub because substantial vegetation mitigates their impact.

However, staff recommends that the raised deck be reduced and the trellis reduced, moved or removed in order to ensure the privacy of the occupants of 48 Lakeside Drive is maintained. Furthermore, a variance to exceed lot coverage is requested, which could be reduced if the deck were also reduced, although staff suggests some leniency is applied due to the necessity of raising the house. Mr. Bell also discussed the new garage stairway leading to the house, noting that it moves the garage forward into the front setback for which a variance is necessary.

In summation, Mr. Bell said that raising the house is inevitable but it must be determined if the design is harmonious with its surroundings and avoids significant view and privacy impacts on the neighbors. Staff recommends lowering the first floor ceiling from 9'-6" to 9', in addition to the reduction of the proposed raised deck area and removing, relocating or resizing the trellis.

Marty Zwick, project architect, requested through the Chair to change the order of proceedings and allow neighbors to speak first.

Rita Canevari, 48 Lakeside, said that her privacy issues have been addressed by the applicants.

Doug Doohar, 63 Mohawk, said that he is on good terms with the Contis and that he requests that the project be approved so that it can move forward quickly. He believes that the trellis would provide more privacy.

Jan Cummins, 51 Lakeside, said that she questioned the necessity of raising the house and would prefer that the original plans were adhered to. She appreciates staff's proposal to reduce the height, since her front yard will lose some light and views.

Lara Ryan, 49 Lakeside, enjoys late afternoon sun, but found it acceptable that she might lose some of it with the original design. However, it does not seem fair that she will now lose more sunlight due to the change in the design.

Sean Svendsen, 33 Lakeside Drive, said that the process is punitive. In response, Mr. Pendoley said that this is a Federal program that is implemented by the Public Works Department. Mr. Svendsen said that they should be sympathetic to the original plan and do all they could to allow the applicants to move forward.

Another resident said that the new design would be an issue if her sun was being blocked, but the yard is large and there are other two-story homes in the neighborhood. The dwelling is a little bigger and taller but it is not located at the front of the property. She supports the project.

Doris Hunker, 53 Lakeside, said that their view is not really affected, but does not see the necessity of raising the house since it was not flooded in 1982. She believes the residents are being punished with a house that is taller, but she would like the applicants to be able to build their home.

Vaso Medigovich, owner 46 Lakeside Drive, said that he empathizes with the Planning Commission's position but that the appropriate action is to approve the project. He discussed a report on elevation of homes in Madera Gardens and said that it is unlikely the house in question would flood for reasons he explained. Mr. Medigovich believes that our Flood Control Ordinance should be reduced to from 7' to 6'.

Marty Zwick, project architect, explained the reasons that the house needs to be raised by 4 feet. He noted that this is a new application, and that the owners had not intended the house to be demolished. Mr. Zwick said after meeting the neighbor at 48 Lakeside, they have agreed to add frosted glass to the upper windows on that side of the house. He addressed loss of light issues in response to the neighbor across the road and noted that their main view of the lagoon is not affected.

Chair Mace and Mr. Pendoley discussed a variance request that would need to be made to the Town Council to reduce the height of raising the house from 4 feet to 3 feet, which is required by Code.

Commissioner Esteb said that there are insufficient story poles to provide a sense of mass, and it should be possible to redesign the interior stairs from the garage so that the garage does not encroach upon the front setback.

Commissioner Bailey commended the staff report and said that one of the purposes of design is to maintain the neighborhood's character. The recommendations appear to be reasonable and the owners have been responsive to the neighbors' comments. However, he supports the lowering of the roof height and a reduced deck size.

Commissioner Pagnillo said that the situation is unfortunate, but he agrees that the first floor ceiling height could be lowered, and the deck size reduced.

Chair Mace agrees with Commissioner Esteb that more story poles would have been helpful, and he believes that the volume and massing remain issues. He believes that a light study is important and that the dwelling's height and deck could be reduced, whilst maintaining design integrity.

General discussion on the design followed, and Chair Mace noted that all single story houses in the neighborhood could potentially become second-story homes.

Mr. Pendoley said that staff had not recommended further story poles because it was felt that a photographic record and the recommended height reduction would be sufficient information for the Commissioners to make a decision. He discussed the principal changes that have been requested, and suggested that staff would be happy to move forward with the project at the Commissioners' direction.

Further discussion followed, and Mr. Bell suggested that the Commissioners discuss the maximum lot coverage they would allow and whether the garage should be pulled out of the setback.

Mr. Zwick noted that their house would not be as tall as others in the neighborhood and that a precedence is not being set. Furthermore, they have dealt with the neighbors' privacy issues.

Mr. Bell discussed a topographical issue that might constitute a unique circumstance in order to grant the lot coverage variance. Mr. Pendoley said that it is reasonable to allow some additional coverage but the Commissioners must decide how much is reasonable.

General discussion on lot coverage and the garage variance followed amongst the Commissioners.

MOTION: Moved by Esteb, second Pagnillo, and passed unanimously, to allow Design Review Application No. 07-016 and Variance No. 07-008 to allow construction of a two-story residence with a lot coverage maximum of 33%, including the front porch as drawn; a roof height of 25 feet and 8 inches; the swimming pool and hot tub to be constructed as proposed within the 10-foot setback; provide patio glass screening for the neighbor at 48 Lakeside Drive, in addition to the installation of obscure glass in the windows of the second floor that face the neighboring property at 48 Lakeside Drive; and with the recommendation to apply to the Town Council for a Variance to the floodplain.

6. ROUTINE AND OTHER MATTERS

A. Review of Planning Commission's Rules and Procedures

Planning Director Pendoley noted that staff should be reminding the Commissioners during the staff report to state if they have gathered further evidence in addition to the staff report.

In response to Commissioner Esteb, Mr. Pendoley said they do not recommend that the Commissioners enter into discussion when they visit neighbors' properties, but should encourage them to attend the meetings.

Commissioner Pagnillo and Mr. Pendoley discussed the amount of time applicants are given to discuss their projects during hearings. Mr. Pendoley believes that 15 minutes is fair.

Chair Mace and Mr. Pendoley discussed meeting procedure.

Commissioner Mace and staff discussed applications that are a result of violations. Mr. Pendoley said they must be treated as new applications for which the Commissioners need to determine if they meet design review criteria.

Staff and Commissioners discussed FEMA rules, and Mr. Pendoley noted that the Commissioners are not empowered to make determinations on the rules.

Vaso Medigovich, resident, believes that Commissioners should visit the site under discussion. He suggested that the rules of procedure are explained at public meetings.

The Commissioners and Mr. Pendoley discussed variances. Staff is concerned that too many might be granted, but special circumstances are built into many lots because they are smaller than the standard size. General discussion followed.

B. Preliminary Hearing Schedule for the Draft General Plan and EIR

Planning Director Pendoley said that the Draft EIR (Environmental Impact Report) should be delivered next Monday to the Commissioners. He recommends a 60 day comment period, and he suggested a schedule, noting that hearings on the Draft General Plan will be held separately.

C. REPORTS AND ANNOUNCEMENTS

i. Commissioners

Commissioner Esteb discussed a course he had attended.

Commissioner Pagnillo attended the last Town Council meeting, where there were discussions on a group who wish to form a green power company. He noted that the Commissioners' decision on 6 Meadow Ridge Drive was upheld 3-2 at appeal.

ii. Director

Planning Director Pendoley confirmed meeting attendance.

D. MINUTES

i. Planning Commission minutes of March 25, 2008

The minutes of March 25, 2008 were motioned, seconded and approved.

7. ADJOURNMENT

The meeting was adjourned at 11pm.