

**FINAL MINUTES
REGULAR PLANNING COMMISSION MEETING
DECEMBER 9, 2008
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Bruce Mace
Commissioner Patrick Pagnillo
Commissioner Peter Schwartz
Commissioner Sloan Bailey

STAFF

PRESENT:

Bob Pendoley, Planning Director
Dan Bell, Senior Planner
Nancy Salcedo, Minute Recorder

1. OPENING

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

All the Commissioners were present with the exception of Commissioner Esteb.

2. PUBLIC COMMENT: None

3. CONSENT CALENDAR: None

4. CONTINUED HEARINGS:

A. 413 MANZANITA AVENUE, DESIGN REVIEW APPLICATION NO. 08-035, VARIANCE NO. 08-012 SCOTT GARLAND & KATE LOWE (OWNERS), GREGORY JOHNSON (ARCHITECT)-To allow partial demolition of an existing, one-story single-family home and allow one and two-story additions including a Variance to allow the second, on-site parking space to be located within the 20' front yard setback. (Zoning: R-1 Medium-Density Residential District) (Planner: Dan Bell).

Commissioner Mace recused himself; he owns property within 500 feet of the subject property.

Senior Planner Dan Bell presented the staff report for which he used a slide presentation. He explained that the applicant is requesting Design Review and Variance

approvals to demolish portions of an existing one-story 1,449 sq. ft. single family home, and to construct a 265 sq. ft. first story addition and an 875 sq. ft. second-story addition. The resulting two-story house would be 2,589 sq. ft. (with a 273 sq. ft. attached one-car garage). The expanded residence would have a maximum calculated height of 26'-6". A Parking Variance is proposed to allow the second uncovered, on-site parking space to be located within the 20' front yard setback.

The neighborhood is characterized by one and two-story, single-family homes. The adjacent residence to the left (east) is two-stories, while the residence to the west is one-story. He said the greater neighborhood had experienced a good deal of construction activity in recent years with second story additions and new in-fill construction.

He said the architecture for the proposed additions is an attractive Spanish style design that is compatible with the neighborhood. The front, rear and side facades and the rooflines of the second story addition are nicely articulated. He explained that the Planning Commission generally encourages that the exterior wall of a second story addition be setback from the first story wall below when the building is located near a side property line. The new second story runs 38'-6" along the westerly side property line, of which 14' is setback 5' from the first story side wall and 24'-6" is aligned with the first story side wall. The appearance of bulk and mass along the westerly side property line is minimized because the addition is located at the rear of the house, because a portion is setback from the first story side wall, and because the shed roof slopes away from the side property line.

The adjacent neighbor at 409 Manzanita Avenue has not voiced concern for a greater second story setback, since the living area of the 409 Manzanita Avenue residence is not located near the bulkier end of the proposed second story addition.

He explained that afternoon southerly light exposure for the adjacent side neighbors would not be impacted by the project because of the north-south orientation. The second story addition will block some early morning sun for the westerly property at 409 Manzanita Avenue. Any second story addition, no matter how modest, would block some ambient sun at 409 Manzanita Avenue.

The new first and second story windows potentially cause privacy impacts for the adjacent neighbors at 409 and 417 Manzanita Avenue. The second story bedroom sills have been raised to 5'2" on the right and left side elevation to avoid privacy impacts. The bathroom windows can have frosted glass or include appropriate window coverings to maintain privacy.

He said the greatest view impact of the westerly view corridors toward Christmas Tree Hill and Mt. Tamalpais would be from the existing second story windows at 417

Manzanita Avenue. There are four sets of second story, west-facing windows here. The westerly views through two of the four sets of windows would be affected by the proposed second story addition. Since two sets of windows will maintain westerly views, the proposal is not considered a significant negative impact.

Staff believes the design is compatible with the existing architecture of the building and neighborhood. Because the second story is located at the rear of the house, the proposal is in scale and compatible with the neighborhood. The increased bulk and mass of the building will be most perceived by the adjacent neighbor at 409 Manzanita Avenue, but the bulkier area of the proposed addition is not located near the living area of the 409 Manzanita Avenue residence.

He explained that the Zoning Ordinance requires that residential development provide two independently accessible on-site parking spaces, one of which must be covered, and that both not be located in the front yard setback area unless a Variance is granted. He said the existing on-site parking is non-conforming. An existing pergola straddles the 20' front yard setback line, and two uncovered parking spaces are currently located within the front yard setback. The proposed project includes removal of the pergola and construction of a 13'-9" wide by 18' deep attached one-car garage with a 6' setback from the left side property line and a 20' setback from the front property line. The location of the garage is dictated by the location of the existing house on this relatively narrow 50' wide lot. The applicants are requesting a Variance to allow the second uncovered space to be located on the far left side of the driveway apron and within the 20' front yard setback. The second uncovered parking space would not block access to the proposed one-car garage.

He concluded that the Spanish style design is attractive, and that the affects of the second story addition are minimized. He said staff believes necessary Variance findings can be made due to the location of the existing house on the lot, and the narrowness of the lot.

Greg Johnson, project architect, said Senior Planner Bell's report was comprehensive, and added that he had taken careful time to design a project that would be compatible with the neighborhood. He said the primary goal was that the new construction would fit well with what is there. He said the owners had done a good job of meeting with neighbors and responding to neighbor requests. He concluded that the project would add character to the street and that it had a great deal of neighborhood support.

Scott Garland, owner added that he had worked with the Shapiro's and had responded to their request.

Doug Shapiro of 409 Manzanita Avenue said the owner had done a great job working with neighbors. He said it would be mutually beneficial to minimize privacy impacts from

the master bathroom window. He also requested that the work schedule be managed as best able within a 7:30 start time and 5 p.m. end time and minimized weekend work to foster good relationships

Betina Jader of 417 Manzanita Avenue said the applicant had been accommodating in raising bedroom windows for added privacy. She said the project would make a nice addition to the neighborhood, and that she appreciated Mr. Shapiro's comment on working hours.

Commissioner Bailey asked about the Town's standard construction management plan requirement. Senior Planner Bell read the details from the Standard Construction Hour conditions included in the resolution. Commissioner Bailey said he could make required findings.

Commissioner Pagnillo said the garage looks big, and that because it is sticking out further, it seems bulkier. He added that the second story roof peak is higher than necessary and clarified that the height is similar to that of the house next door. He said he could make the required findings for Variance, and hopes a good solution will be found for the bathroom window treatment.

Commissioner Schwartz said it is a pleasing design. He suggested the second story gable-end roof facing 417 Manzanita Avenue should be replaced by a sloping roof pitch to soften the facade and provide a more attractive view for the house next door than looking at the broad side of a gable. The 8' sill plate could remain, and the façade would look a little more balanced. The bathroom window facing 409 Manzanita Avenue is attractive in shape and it's likely they will want to use obscured glass. He said he could leave this consideration to the architect and owner, and that he could make the required findings for Design Review approval and Variance.

Mr. Johnson said regarding the garage roof that at one point he had designed the roof higher. He said it could probably come down a bit. Senior Planner Bell clarified that the height is slightly lower than the peak of 409 Manzanita Avenue, which is 16 feet. He said the applicants wanted a vaulted ceiling in the master bedroom, and are hesitant to add the interior ceiling angle resulting from a pitched roof.

Mr. Garland said he preferred the balance the way it is designed. They had considered the pitched roof of the master bedroom, but when they realized its impact on the inside of the ceiling, they rejected it. He added that the bathroom window is the only window that looks at Mt. Tam, and that they want to use coverings rather than frosted glass. He said Mr. Shapiro has planted screenings along the side property line.

Commissioner Schwartz said the determination of window treatment could be left to the neighbors.

MOTION: Motioned by Commissioner Pagnillo, seconded by Commissioner Bailey and passed unanimously to approve Design Review Application No. 08-035, and Variance No. 08-012 as proposed to allow partial demolition of an existing, one-story single-family home and allow one and two-story additions including a Variance to allow the second, on-site parking space to be located within the 20' front yard setback at 413 Manzanita Avenue.

5. NEW HEARINGS

- A. 640 AND 654 OAKDALE AVENUE, LOT LINE ADJUSTMENT APPLICATION NO. 08-001 PHILLIP BORGHUIS, RICHARD FOWLER (OWNERS)-** To allow a Lot Line Adjustment between two adjacent residentially zoned parcels. (Zoning: R-1 Medium-Density Residential District.) (Planner: Dan Bell).

The applicant from 654 Oakdale Avenue has withdrawn the application.

- B. 459 REDWOOD AVENUE, DESIGN REVIEW APPLICATION NO. 08-034, MIKE DEVERELL AND SUSAN MUSCATELL (OWNERS)-**To allow construction of an expanded rear yard deck. (Zoning: R-1 Medium-Density Residential District) (Planner: Dan Bell).

Senior Planner Bell presented the staff report for which he used a slide presentation. He reviewed the history of the project, explaining that the Planning Commission heard a proposal for an expanded rear yard deck on October 28, 2008, where neighbors voiced concern that the deck caused significant negative privacy impacts, and opposed the mass and bulk of the deck. The Planning Commission continued the item to a date uncertain to allow the applicant an opportunity to downsize and mitigate the design of the originally constructed deck. The Commission must now determine whether the changes reflected in the most recent design revisions are sufficient in addressing the Commission's comments, and are adequate in mitigating adverse impacts in the neighborhood.

The current proposal includes a 422 sq. ft. deck with a 48 sq. ft. stairway, which has been moved to the left side. A corner of the deck has been chamfered and an Evergreen Pear tree is proposed for additional buffering. The 6' tall redwood lattice privacy screen and the deck plantings along the right side of the deck would remain.

He said the Commission's review should focus on view, sunlight and privacy concerns of the expanded deck as these issues affect the most adjacent property owners. He said staff believes that the proposal does not cast any significant shadows on the closest neighbor at 461 Redwood Avenue because the subject property is to the north of 461 Redwood Avenue, and would not affect the other adjacent neighbor at 457 Redwood Avenue since there is a generous 25' side yard setback and mature trees

along the common side property line. The Commission must determine whether this revised proposal is appropriate for this site and ensure that no significant adverse privacy impacts are imposed on the immediate neighbors or the greater neighborhood, and that the size and scale of the deck is harmonious with the character of this neighborhood in order for necessary Design Review findings to be made.

He added that the owner of the property at 365 Corte Madera Avenue had provided photographs of the proposed deck at the October 28 meeting, and showed photographs comparing the two versions of the deck design from that vantage point. He noted that there is a 130 foot distance between the subject property and 365 Corte Madera Avenue.

Commissioner Schwartz asked for staff's assessment of the deck revision as it pertains to 365 Corte Madera Avenue. Senior Planner Bell said staff feels the change is not perceptible because of the distance.

Mike Deverell, the owner thanked the staff and Commission for the time taken to review the project. He said he had met with his neighbors, and that those at 355 and 357 Corte Madera Avenue now find the proposal acceptable. He said he was unable to reach an agreement with the Hughes at 461 Redwood Avenue or with Mrs. Walker at 365 Corte Madera Avenue.

He said his goal was to gain outside living space, and to strengthen the deck as there is just one beam and two posts under the deck with no lateral bracing, The project goal remains to improve privacy for himself and his neighbors, increase outdoor living space and add an exit from the house. He said he and his wife realize they must balance their needs with those of their neighbors, and that the current proposal would be a good balance. He said the Evergreen Pear tree will be at deck height as soon as it is planted, and he intends to let the privets grow to 12 feet or higher to mask the under deck. He said that, with trellis in place, he can't see 461 Redwood Avenue or 365 Corte Madera Avenue. He said he has made significant concessions, and that he and his wife believe in privacy and property rights. He feels that the current proposal is a reasonable compromise and fits within the Town's requirements. He concluded that he has no interest in peering into neighboring yards, and that the deck's railing and plantings are regarded as permanent. He acknowledged that any future changes would require review and approval by Town. He said he feels that he has met and gone beyond recommendations of staff. He concluded that the most impacted neighbors are located behind the property, and they are in support.

Joanne Walker of 365 Corte Madera Avenue said that the diagonal corner does not change the imposition of deck, and that the tree is not sufficient or permanent. The deck will change the footprint of the residence and future living space may easily be added underneath the new deck. She asked what consideration the Town would give her.

Amy Hughes of 461 Redwood Avenue commended the owners in the previous hearing item (413 Manzanita Avenue) for having consulted their neighbors before they built. Regarding the owner's claim of instability of the deck, she said it was inconceivable that a 12-month-old deck be structurally unstable as all building conforms to building permit requirements. She said the deck location with the 6-foot tall lattice offers privacy only to those on the extended deck. She requested that the Commission reject the current proposal, but added that she did approve of the stairs being relocated on the opposite side.

Commissioner Schwartz said that decks typically generate an emotional response, as they are usually located on hillside lots, and are problematic because they are an extension. He said the issue of the deck having been built without a permit is not the focus of tonight's consideration, rather it is the Planning Commission's charge to address the proposal on the merit of its Design Review considerations, and how well the applicant addressed the Commission's previous guidance. He said the handrail and lattice are dictated by the building code, and that the lattice is not a structural element. Senior Planner Bell clarified that, while the rail is a structural element, the lattice is to provide privacy buffering.

Commissioner Schwartz said that the Evergreen Pear tree is adequate in buffering the deck's impacts, and that the Commission has, in the past, attached conditions to project approval to maintain landscaping of particular importance in buffering neighbor impacts. He said the privacy has improved with changes in the deck's design, but acknowledged that the proposal presents a tough situation in that the new deck does impinge on the hot tub privacy of the adjacent neighbor.

Commissioner Pagnillo said that the stairs being moved helped the problem. He agreed that decks do cause privacy issues for neighbors, and acknowledged that there are only so many privacy elements that can be incorporated. He said there are requirements that the Commission can add to the project approval to ensure that privacy elements will remain.

Commissioner Bailey said he thought the owner had done a good job in working with the neighbors, reducing the size of the deck and reducing the corner. He acknowledged the neighbor's legitimate concern of privacy impact, and added that the Commission could condition in the approval that the tree gets maintained, but that the privacy issue with immediate neighbor remained unresolved. He said it is a primary function of the Commission to preserve everyone's property rights, yet there may be an unhappy result. He said that moving the stairway and reducing the size had been helpful, and that the Town must allow for a deck of some sort. He said he wished there was a way to make peace, but he is generally in favor of making findings for approval.

Commissioner Mace said that a serious effort has been made to accommodate the neighbors, and he acknowledged the privacy issue. He also said that the Commission could include the permanence of the lattice and the tree as a condition of approval, and condition the size of the tree at the start. He said regarding concern over the future additional bedroom under the deck, that this is not part of the proposal, and that anything new would have to come before the Commission for review.

Commissioner Schwartz said that the existing deck did not afford privacy to 355 and 357 Corte Madera Avenue, but that the new deck enhanced that privacy, which is a reasonable and logical compromise.

MOTION: Motioned by Commissioner Bailey, seconded Commissioner Pagnillo and passed unanimously to approve Design Review Application No. 08-034 as proposed to allow construction of an expanded rear yard deck at 459 Redwood Avenue with the following conditions:

- 1.) The 6-foot tall lattice be permanently maintained to provide neighbor privacy.
- 2.) The Evergreen Pear tree be of height in excess of reaching the deck height at the time of planting.

Planning Director Pendoley read the appeal rights.

6. ROUTINE AND OTHER MATTERS

The following items do not require a public hearing, although the Chair and staff will indicate why each item is on the agenda. Commission may decide to reschedule the item as a public hearing.

- A. DRAFT FINAL EIR and GENERAL PLAN-The public hearings on the draft Final EIR and draft updated General Plan were closed on November 20, 2008. The Planning Commission will consider and may adopt resolutions recommending certification of the EIR and adoption of the draft updated General Plan. (Planner: Robert Pendoley).**

Planning Director Pendoley reviewed the project history. He offered as a start that the Commission focus on the language for Chapter 2 and LU 4.3. He said there had been a general agreement on the Mixed-use Gateway District and an FAR of .47 with density up to 300 units, but that how to implement remained undetermined. He said that implementation program LU-4.3 reads that housing be allowed, but not mandated, rather encouraged. He concluded that this is a good place to stop on this issue in the Land Use Element, as it will be resumed in the Housing Element, which is the best place to develop housing policy.

He said changes to the Circulation Element come mostly from the EIR. There are three other revisions proposed to accommodate mitigation measures, which include the addition of LU-1.10 which would require verification of water availability as part of any project approval; incorporation of implementation program RCS-9.1a stating that the Town continue to implement the Municipal Stormwater Ordinance; and the addition of implementation program PSH-8.2f to assure that properties created by subdivision in landslide-prone areas are large enough to design stable building sites and driveways. The General Plan has been printed with all changes shown.

Commissioner Bailey said he liked the recommended additional language in implementation program LU 4.3.a page 2-5a of staff report. He said he is not sure he remembers discussing changing market conditions, and that he is apprehensive about including this, as it is short sighted. Planning Director Pendoley agreed, as did the Commission.

Commissioner Mace said this ties into to his nexus comment from the November 20, 2008 hearing, and that he is looking forward to including the nexus to FAR .47 is part of the Housing Element.

Commissioner Schwartz said that the General Plan looks at the overall fabric including many threads, such as environmental, social, and economic considerations. Part of what forms long term planning is long term economic planning.

Commissioner Pagnillo said either way would likely not make a big difference.

Planning Director Pendoley said Commissioner Pagnillo had asked about budget considerations in regard to the implementation programs, and responded that typically the initial concern is impact to the General Fund. He said programs funded from other sources say so directly. Most of implementation programs proposed for General Fund are already in effect. He also said that those that tend to cost the most do so in terms of staff resources, for example the program to develop Old Corte Madera Square Plan, which would be paid by General Plan Maintenance Fee.

Commissioner Pagnillo asked which of the implementation programs listed were new. Planning Director Pendoley said those that are new have a date beside them. Commissioner Pagnillo asked if Developing Design Guidelines would be included in this category, which Planning Director Pendoley confirmed.

Chairman Mace concluded that the Commission seemed happy with the listing of Implementation Programs.

Planning Director Pendoley said he had prepared responses to Audubon and to Ms. Vos' comments. He said the Town Attorney and he had spent many hours on the draft resolutions, adding that this is the fourth draft and that the Town Attorney has determined it is legally adequate. If the Commission were comfortable with the resolutions, it would be appropriate to invite public comment, though this isn't a hearing.

Chuck Davis of Macerich Company said he wanted to make a minor clarification in the language of the definition of FAR. He said that for the WinCup property it says in policy LU-4.3 "non residential FAR of up to .47." He requested that it also say this for The Village on page 2-19 after minimum lot size. Planning Director Pendoley explained this was already included in the language, but that he had no problem with Mr. Davis' request. The Commission was in agreement

Commissioner Mace commended Planning Director Pendoley's work.

Commissioner Schwartz said it would be good to show the resource loading over time and add dollar expenditures. He commended Planning Director's monumental effort on a job well done.

MOTION: Motioned by Commissioner Pagnillo, seconded by Commissioner Bailey and passed unanimously to adopt the draft resolutions recommending certification of the EIR and adoption of the updated General Plan.

B. REPORTS AND ANNOUNCEMENTS

- i. Commissioners: Mace attended the Council Meeting.
- ii. Director: None

C. MINUTES

Planning Commission Meeting Minutes of November 20, 2008.

Motioned, seconded and unanimously approved.

7. ADJOURNMENT: The meeting was adjourned at 9:25 p.m. The next Planning Commission Regular Meeting is January 13, 2008 at 7:30p.m. in the Corte Madera Council Chambers, 300 Tamalpais Drive.