

Planning Commission
Regular Meeting
July 26, 2016
Martinez, CA

CALL TO ORDER

PRESENT: Sigrid Waggener, Chair, James Blair, Commissioner, Dwayne Glemser, Commissioner, and Paul Kelly, Commissioner.
EXCUSED: Jeffrey Keller, Commissioner, Kimberley Glover, Commissioner, Gabriel Lemus, Commissioner and Tracey Casella, Alternate.
ABSENT: None.

The meeting was called to order at 7:10 p.m. with all members present except Commissioners Glover, Keller, and Lemus.

Staff present: Assistant City Attorney Veronica Nebb, Interim Planning Manager Jim Reece, Senior Planner Corey Simon, and Contract Planner Cindy Gnos (Raney Planning Management)

AGENDA CHANGES - None.

PUBLIC COMMENT

Nadine Peyercaine expressed concern about the project proposed for Jardine off Morello, specifically the number and size of the houses they want to build on the property. She indicated she doesn't agree with the Mitigated Negative Declaration and was concerned about the environmental impacts.

Senior Planner Corey Simon noted that Contract Planner Cindy Gnos would be handling that project.

Ms. Gnos responded to Ms. Peyercaine's comments and explained how the application and review process will work from Design Review to Planning Commission to City Council, including many opportunities for public input.

Chair Waggener asked about the anticipated timeline.

Interim Planning Manager Jim Reece (Management Partners) introduced himself and discussed what his position is while he is here.

CONSENT ITEMS

Minutes of July 28, 2015 & October 27, 2015, meeting.

Chair Waggener noted that the minutes would have to be continued to the next meeting since there was not a quorum of attendees from those meetings present to take action.

On motion by Sigrid Waggener, Chair, seconded by James Blair, Commissioner, to postpone the Minutes of the July 28, 2015 meeting. Motion unanimously passed 5 - 0. Yes: Paul Kelly, Commissioner Sigrid Waggener, Commissioner Dwayne Glemser, Commissioner Jim Blair, Commissioner, Tracey Casella, Alternate.

On motion by Sigrid Waggener, Chair, seconded by Paul Kelly, Commissioner, to postpone the Minutes of the October 27, 2015, meeting. Motion unanimously passed 5 - 0. Yes: Sigrid Waggener, Chair James Blair, Commissioner Dwayne Glemser, Commissioner Paul Kelly, Commissioner, Tracey Casella, Alternate.

The meeting went into recess to allow additional staff to arrive.

The Meeting reconvened at 7:18 with all members present as indicated.

REGULAR ITEMS

[Fraschieri Minor Subdivision 16PLN-0008, MS 551-16 Public hearing on an appeal of the denial decision of the Zoning Administrator of a Minor Subdivision for the creation of one \(1\) new single-family residential lot \(in addition to the existing residence\), to allow an approximate 2.6 acre parcel to be divided into two \(2\) lots, with each approximately 1.3 acre in size. New development will be limited to an approximately ¼ acre area between Tavan Estates Drive and the existing 2 acre scenic easement is proposed. This project is located at 950 Tavan Estates Drive. Applicant: Albert M & Corina T Fraschieri \(CG\)](#)

Contract Planner Cindy Gnos presented the staff report, discussing the Zoning Administrator's denial of an application for Minor Subdivision, current zoning, proposed new zoning, square footage of the lot currently, staff's original belief that the proposed subdivision would be consistent with the City's Municipal Code, but that the Zoning Administrator determined that it would not be (a) based on General Plan density, (b) use of area within "open space" zoning district to meet minimum lot size requirements, and (c) applicants unwillingness to accept conditions for installation of needed street improvements.

Commissioner Kelly asked about the square footage equivalent of the .67 acres. Staff indicated it was almost 30,000 s.f.

Chair Waggener confirmed with staff that maintenance of the open space was set as a condition of approval for the original development. Ms. Gnos explained that the mitigation requirements are difficult to follow but there is a figure in the Conditions of Approval that shows the location of the open space.

Commissioner Blair asked if she was referring to Open Space Plan dated 1-10-75 as Attachment B in the staff report, and Senior Planner Corey Simon clarified which lot

number on the map. Commissioner Blair noted that in some cases the City records do not confirm what is later understood to be open space by the neighboring property owners, but in this case the proper designation was made clear.

Chair Waggener asked if the open space designation was not known in the beginning stages of this application, which staff discussed.

Commissioner Glemser asked which neighboring property owner has the back view of the open space.

Chair Waggener opened the public hearing.

KEEGAN FRASCHIERI, Applicant, expressed concern about the process thus far, noting he was led to believe the City would support the minor subdivision since staff had recommended that the Zoning Administrator approve the application. He was confused and frustrated as to what changed. He also discussed expenses incurred by the family by pursuing the application in good faith based on information from staff, including his relocation and job change in order to build a house on his family land. If the application is denied, he stated that the City should reimburse them for those expenses, or apply them to future fees if an alternative plan can be devised, such as a secondary unit on his parents' un-subdivided property.

MARK FRASCHIERI, Applicant, talked about another property for which the Tavan Estates Architectural Control Committee in 1981 approved the vacating of a scenic easement so that a house could be built, which ultimately was approved by the Martinez City Council. He noted as well that he had the full support of the Tavan Estates Homeowners Association (HOA) which the earlier project did not.

JOY DEAN presented one of the original maps of Tavan Estates, which confirms the open space designation of a section of the Frascieri property. She clarified that the property cited by Mr. Frascieri was an exchange of open space property, not building on an open space parcel. She also discussed unique aspects of the Tavan Estates PUD (Planned Unit Development) which should be protected and preserved. She indicated her support for staff recommendation to uphold the Zoning Administrator's denial.

DONALD VOLSIC discussed the history of the development and the many CC&Rs (Contracts, Covenants and Restrictions) to which every property owner in Tavan Estates had to agree when purchasing their property. He did not think the proposed application was in conformity with the CC&Rs. He also commented on road conditions in front of the subject property and asked that there be no deferral of the requirement to make road improvements if the project is approved. He said he supports the staff recommendation as well.

CORINA FRASCHIERI, Applicant, responded to Ms. Dean's comments about the HOA's position on the project, noting that they have supported the project. She also noted that all the neighbors in the immediate area support the application and agree with the request

for a waiver of the required road improvements because they like the way things are currently.

BRIAN SISTERMAN said he attended the Zoning Administrator's hearing, and he as well as many others who attended couldn't understand why the project was denied. He questioned whether the reasons for the denial were formulated after the fact since the information shared at that meeting did not support the denial. He also clarified comments he made at the hearing about the road improvements and confirmed he is supportive of the project.

BOB THOMPSON commented on unique aspects of the Tavan Estates neighborhood and values. He expressed his complete support for the project as proposed.

YVONNE HUBBARD said she was opposed to the project, as it was not consistent with the CC&Rs and other aspects of the neighborhood. She pointed out that the original PUD specified 75 homes and made no provision for subdividing a lot. She was disappointed that the HOA Board gave its approval to the project before all the members were made aware of the application. She also shared a newspaper article from 1982, regarding neighborhood kids fighting to preserve the scenic easement.

STEVE LADRECH, who lives across from the easement, noted that the view was one key reason that they moved to the neighborhood. He added, however, that he and his wife have looked at the plans the Frasieris have proposed and do not believe it will affect their view. He indicated his support of the project.

MARK HUBBARD discussed the history of the area and the values that should be preserved. He noted that Tavan could be seen as a transitional zone between high density areas and the open space. He commented on traffic issues as well. He said he was opposed to the project.

Seeing no further speakers, Chair Waggener closed the public hearing.

Senior Planner Corey Simon reviewed the history of the project, noting that it was first presented to the Building Department in the same manner as an application for a backyard shed rather than a secondary living unit. He commented on his discussions with the applicant throughout the process, ending with their decision to pursue a subdivision of the site, which led to the Zoning Administrator's hearing, input from the neighborhood and the subsequent denial by the Zoning Administrator. He clarified staff's review and visual understanding of what the house might look like, adding that he had suggested that the applicant might want to provide a copy of the plan or design.

Commissioner Kelly asked if the information Mr. Simon just gave was shared at the Zoning Administrator's meeting. Mr. Simon indicated it was discussed toward the end of the hearing, as well as the possibility of building a secondary unit without subdividing the lot. In response to a follow-up question from Commissioner Kelly, Mr. Simon explained that the written history of the application process that was provided by the applicant did not include everything that happened.

Chair Waggener asked if the HOA had provided copies of their documents, such as environmental review and a summary of their guidelines and restrictions. She expressed concern because the information was introduced so late in the process. Mr. Simon said staff was frustrated too because the documents he was provided in the beginning showed no indication that subdividing was prohibited. He also was unsure what information the current HOA Board had.

Assistant City Attorney Veronica Nebb explained that CC&Rs and HOAs neither bind nor obligate the City to any course of action, and any approval process that City has is completely independent of the HOA requirements.

Chair Waggener acknowledged she was aware of the separation between the HOA's authority and the City's; she was only expressing regret that all the information was not available earlier in the process.

Ms. Nebb pointed out that with the City's allowance for secondary units; the possibility exists for four units, if the original property is subdivided. Chair Waggener clarified with staff the size provisions, etc. of potential secondary units.

Commissioner Blair said for him the HOA approval or denial was a nonissue for him because his responsibility is to the City and conformance with City regulations. He acknowledged that both the City's General Plan and Zoning Ordinance are very outdated but in this situation, the requirements for this lot were part of the mitigation measures and conditions of approval for the Tavan Estates development. He expressed sympathy for the applicant for the time and money expended, but said he feels compelled to consider the original requirements in making his determination.

Commissioner Kelly noted that exceptions have been made in the past, and the desire for the children to build a house on the same lot was not an extreme request nor would it have major impacts.

Chair Waggener explained that previous exceptions were to developers prior to building, but in this case she agreed the original requirements for the lot and the development should be upheld.

Commissioner Kelly maintained his belief that there should be a way to allow the subdivision and additional house, especially since the HOA had approved it.

Chair Waggener explained that a substantial change like that would require the reopening of the environmental review process.

Commissioner Glemser agreed it is regrettable that all the information was not evident earlier in the process. He suggested that the applicant consider going ahead with a secondary unit but no subdivision, and the fees already paid should be applied toward any additional costs associated with that process.

Ms. Nebb discussed with the Commission the requirements for a secondary unit, and she also cautioned the Commission about considering or recommending or otherwise predetermine the outcome for any future application (such as secondary unit or use permit, etc), reminding them of the action before them tonight as shown on the agenda.

On motion by James Blair, Commissioner, seconded by Sigrid Waggener, Chair, deny the appeal and uphold the Zoning Administrator's denial of the Frascieri Minor Subdivision (16PLN-0008, MS 551-16). Motion failed 2 - 2. Yes: Sigrid Waggener, Chair, James Blair, Commissioner, No: Dwayne Glemser, Commissioner, Paul Kelly, Commissioner. Excused: Jeffrey Keller, Commissioner, Kimberley Glover, Commissioner, Gabriel Lemus, Commissioner and Tracey Casella, Alternate.

Ms. Nebb explained that the effect of the non-passing of the motion to sustain the Zoning Administrators decision and to deny the subdivision application.

Chair Waggener reviewed the appeal process, should anyone choose to do so.

COMMISSION ITEMS - None.

STAFF ITEMS - None.

COMMUNICATIONS -None.

The meeting was adjourned 8:31 pm. to the next regular meeting of August 9, 2016.

Respectfully Submitted

Approved by the Planning Commission

Mary Hougey

Sigrid Waggener, Chair