

Planning Commission
Regular Meeting
April 26, 2011
Martinez, CA

CALL TO ORDER

The meeting was called to order at 7:05 p.m., with all Commissioners present except Glover and Kelly, who were excused.

Staff present: Terry Blount, Anjana Mepani.

ROLL CALL

PRESENT: Chair Donna Allen, Vice Chair Rachael Ford, Commissioners Harriett Burt, Jeffrey Keller, and Sigrid Waggener.

EXCUSED: Commissioners Paul Kelly and Kimberly Glover.

ABSENT: None.

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. Minutes of March 22, 2011, meeting.

Planning Manager Blount noted that an addendum to the minutes, including comments from Commissioner Burt, was presented on the dais.

Commissioner Burt said the record should show the actual comments made by her.

On motion by Commissioner Keller, seconded by Commissioner Burt, the Commission present voted unanimously to approve the Minutes of March 22, 2011, meeting, as amended (Commissioners Kelly and Glover excused).

REGULAR ITEMS

2. Elliott Residence UP 10-07 Public hearing on an appeal of the approval decision of the Zoning Administrator for Use Permit #10-07. The Zoning Administrator approved the applicant's request for Use Permit approval to allow additions to an existing cottage and an existing garage within the rear yard of 1401 Linton Terrace. Applicant: Teresa Elliott (AM)

Associate Planner Anjana Mepani presented the staff report, discussing the original application, approval of the Use Permit by the Zoning Administrator, and the subsequent appeal. She noted that no one at the hearing expressed concern regarding the structure size and location, but other issues were raised related to parking and garbage pickup access. She also noted that three

additional Conditions of Approval were added by the Zoning Administrator and changes were made by the applicant to the plans to address the issues raised at the Zoning Administrator hearing. She reviewed the details of the appeal and staff's findings in response to the appeal.

She noted that staff recommends denial of the appeal, uphold the Zoning Administrators approval decision, find the proposed project categorically exempt from the requirements of CEQA, grant approval of Use Permit #10-07 subject to the draft resolution containing the necessary findings and conditions of approval.

Chair Allen asked about the proper order for the public hearing. Staff said first the applicant, then the appellant, followed by public comment, and then rebuttal by the applicant.

Vice Chair Rachael Ford asked about the staff report statement regarding abutter's rights, which Ms. Mepani explained further.

Vice Chair Ford asked about the location of the right-of-way, and Ms. Mepani said it is the "bulb" area of the cul-de-sac. Vice Chair Ford asked whether others park in the same area of the right-of-way, and Ms. Mepani explained they are not supposed to park there, but some do. Ms. Mepani also noted the addition of a driveway made one of the Zoning Administrators Condition of Approval unnecessary. She indicated that there will be no parking allowed in the portion of the driveway in the public right-of-way, but only on the portion of the driveway on the private property.

Commissioner Burt asked where the property line is where people have been parking casually, which Ms. Mepani described. Chair Allen asked how far from the property line to the back of the cottage, which Ms. Mepani provided.

Commissioner Keller asked about the requirement for the property line to be surveyed to determine the exact location, and Ms. Mepani said it has been done and the site plan is accurate now.

Commissioner Burt asked about accessory structure requirements and whether any future use as a rental would meet those standards. Ms. Mepani said there must be at least one parking space on the site, but it does not have to be in the back where the new driveway is proposed.

Chair Allen asked about the existing open space easement - is it a private easement or does the City have ownership? Staff indicated they were not sure, and deferred to applicant; she did not know either.

Chair Allen said the applicant should check the deed. Mr. Blount left to ask Senior Planner Corey Simon, since he has been reviewing open space areas in the City.

The applicant's representative, JANE ELLIOTT, expressed concern as to why this is such a problem for the neighbors - it seems like such a good thing to do and will not hurt anyone.

CHARLES GOODALE, contractor for the project, commented on the need to get the issues

settled so the project can go forward.

SCOTT CIABATTI, engineer for the project, discussed his concerns with safety and strengthening the structure. He was supportive of the project.

Appellant MIKE FOTHERINGHAM, neighboring owner, commented that the addition of the driveway changes the appeal process since most of the appellants have not even seen the new plan. He was concerned that eventually the new cottage will be a separate rental altogether. He also discussed discrepancies in the minutes of the Zoning Administrator's hearing. He discussed some issues with the size of the unit, contrary to statements by staff that there was no issue. He mentioned concern that there could be subsequent changes to the parking areas once the project is approved. He also noted there is ample acreage on the lot for parking without the need for another driveway and/or parking space on the cul-de-sac bulb. He also had questions about the proposed fence and electric gate. He noted that some of cul-de-sac parking is partially on the owner's lot and partially in the public right-of-way.

JIM HIND noted he was not opposed to Ms. Elliott wanting to take care of her mother or her own needs, but he had some concern about the appearance of the lot, as well as impacts on the neighborhood from future rental of the unit. He suggested adding on to the original structure or not adding a driveway on the cul-de-sac; perhaps finishing the fence and having access from the front of the property as the original home does. He reiterated he was not opposed to Ms. Elliot's needs or her mother's, but concerned about future rental of the unit and visual impacts for the neighbors on the cul-de-sac.

Public Hearing

Appellant JUDY ROWAN, long-term Linton Terrace resident, expressed agreement with the previous two speakers and concerns about visual impacts from garbage, parking, and cast-offs, as well as the rental potential later.

Appellant CAROLINE GLOVER, also long-term Linton Terrace resident, commented on the cohesiveness of the neighborhood except for Teresa Elliott, who has not been responsive to other neighbors' needs. She discussed the history of parking issues on the cul-de-sac. She indicated she attended the Zoning Administrator meeting and thought the issues had been resolved until the engineer said at the end of that meeting that he wanted to park there when he comes to visit. She also noted that garbage pick-up has not always been at the rear of the property, as stated by the applicant. Her main goal is to maintain neighborhood peace - noting there is no need for private access or garbage access from the property to the cul-de-sac. She encouraged the Commission to visit the site and see the actual situation. She asked the Commission to keep the additional conditions as agreed on at the Zoning Administrator hearing, without garbage access.

Chair Allen asked whether neighbors support parking on the cul-de-sac or not. Ms. Glover said the majority does not want any parking there at all and all access to Ms. Elliott's lot should be blocked on that side.

LORI ESTES, a friend and neighbor of Teresa Elliot, said she approves of the project.

MIKE WEBER, another friend of the Ms. Elliott, expressed concern about the distance Ms. Elliott's mother will have to walk if the parking is moved to the front entrance.

VICTOR SOLANO commented on the rights of individuals and the illegal taking of those rights by neighbors. He felt this was not a legitimate appeal - but obstructionist efforts with vague issues cited. He said he thought staff findings and recommendations should be followed. He also noted there should be compensation to the property owner if her rights are taken without cause. He thought adding the driveway will address the issues already raised. He asked the Commission to make the right decision and not let fear of the unknown dictate.

LISA ESTES, friend and neighbor of Ms. Elliott, agreed with Mr. Solano in support of the project.

SHERRY DAHLQUIST, commented on the difficulty facing many of the in-between generation having to take care of their children and parents at the same time. She thought this was a good solution for Ms. Elliott and her mother.

She also read a letter from Ms. Elliott's cousin, regarding the need to care for each other as family. She asked the Commission to move forward with approval of the project, noting it will also be a benefit to the neighborhood.

Appellant JOHN WALKER clarified this is not an attack on Ms. Elliott - the issue is parking on Linton Terrace and the impact it may have on a neighborhood with already-existing parking issues. He reiterated there is plenty of room on the applicant's property to park next to the cottage.

JOHN LOPEZ attested to Ms. Elliot's character, as well as her rights to develop her property as she wishes. He was concerned about the inappropriate involvement of others in Ms. Elliot's business.

Rebuttal

Ms. Teresa Elliott said it is important for her to get her mom in the property as soon as possible, in view of both their health issues. She also said she wants to improve the neighborhood and still be respectful and courteous to the neighbors and their needs.

Chair Allen noted that the issue is not with the cottage, but with the fairly large garage. She asked if parking on the far side of Linton Terrace was her vehicles. Ms. Elliott said no.

Public Hearing Closed.

Mr. Blount explained that the open space easement was put in place as a requirement with the previous subdivision. He also said state law requires all properties be allowed to have a 2nd unit if they desire and space permits.

Ms. Mepani clarified the size of the property, the size of the 2nd unit, and the applicant's right to put in a driveway on Linton Terrace since the abutter's rights were not seceded.

Vice Chair Ford restated her understanding of the applicant's rights to get an encroachment permit to add a driveway on Linton Terrace, regardless of any action on this application.

Chair Allen clarified that this is a discretionary approval and so driveway requirements could be part of the Conditions either way. Vice Chair Ford added that issue seems to be with Linton Terrace parking, not with the cottage itself. She expressed concern about the neighbor's demand that she not be allowed parking there, but they want to have friends park there.

Vice Chair Ford confirmed with Mr. Blount that the applicant can build a driveway whenever she wants, with no recourse for the neighbors. She is inclined to uphold the Zoning Administrator's decision, but she expressed concern about the neighbors' inability to resolve the issue, especially since the applicant has enough space on her lot for additional parking close to the new cottage.

Commissioner Waggener noted that this is an accessory structure, and she thought single point of entry/egress should be sufficient. She also noted that the neighbors seem willing to give up their parking on the cul-de-sac too.

Commissioner Keller expressed agreement with previous commissioners and the need for neighbors to work together to resolve these issues. He agreed neighbors don't have an issue with the size of the structure, and there is adequate space onsite for another parking space with the original driveway. He agreed with the Zoning Administrator's approval.

Commissioner Burt expressed appreciation that the neighbors do not have an issue with the size, shape, color, or anything with the new building, but it is sad that misunderstandings and the lack of connection between the two sides have resulted in hurt feelings. She added that unfortunately, the Commission cannot violate the standards and statutes of City ordinances. She very likely would have voted against this development because of parking issues, etc., and the law of unintended consequences is exemplified by these results today. She noted that the encroachment permit allowance and secondary unit ordinance give no room for any other course but support of the Zoning Administrator approval. She expressed her regret regarding the neighborhood disagreement that has resulted.

Chair Allen agreed with Commissioner Burt, but she reiterated her earlier statement about variances requested at the same time, which allows for additional Conditions to be imposed. She agreed that the lot size allows for a second unit, and there is no concern about the size of the unit. She said the aerial map shows a path leading to the cottage and asked whether it could become a driveway to the cottage. She was concerned that that the driveway right-of-way will be parked in. She asked if the proposed parking pad could be extended to allow an additional parking space. Ms. Mepani said the secondary unit requirement is for only one space. Chair Allen agreed with Commissioner Waggener that the secondary structure seems to indicate a single access point. She was doubtful that no parking in the driveway right-of-way is really enforceable. She again suggested a second parking space be added even though not required. She was not sure that a viable solution had been found.

Commissioner Burt asked where the parking is in relation to the fence and the cottage. She agreed maybe a 2nd space could be allowed or single-entry access for both units. Ms. Mepani said tandem parking could be possible. Vice Chair Ford expressed doubt that could work. She again reiterated that encroachment permit for a driveway is her right. She thought the applicant's rights should be upheld.

Chair Allen disagreed, saying she thought the driveway should be larger to allow visitor parking onsite or access to both homes from the current driveway at 1401.

Commissioner Keller agreed with most of what Vice Chair Ford said, but he commented on the need for compromise from the applicant, since the neighbors are willing to allow the proposed structure. He agreed with Chair Allen's suggestion for an additional condition requiring a single driveway.

In response to a question from Vice Chair Ford, Mr. Blount acknowledged that a condition could be added since this is a discretionary permit request.

Vice Chair Ford asked if a driveway could be added after the project is complete. Mr. Blount said it could not if conditioned by the Planning Commission.

Vice Chair Ford changed her vote, she thought the project makes more sense with one access point.

Commissioner Burt asked if the motion could be for support of the Zoning Administrator approval, with the exclusion of the driveway. Mr. Blount said yes.

Commissioner Burt also expressed agreement with the neighbors' concerns about garbage pick-up and Christmas trees being left there, and she acknowledged Ms. Elliot's need to be responsible for bring them in promptly etc. She also acknowledged there is no place in front of the 1401 frontage for garbage pickup, so it should be allowed from the cul-de-sac.

Chair Allen asked for clarification on the applicable Conditions of Approval, which Ms. Mepani reviewed.

Mr. Blount said the Commission could re-add the condition about the boulders and add one regarding the driveway restriction.

Vice Chair Ford asked for clarification on the pedestrian gate, which staff confirmed would not be removed.

Mr. Blount stated that the Commission seems to favor of removing current Planning Commission conditions C & D.

The condition regarding blocking parking access on the cul-de-sac was discussed at length. Chair Allen suggested landscaping instead, and Ms. Mepani explained that the condition called for boulders or something similar, like landscaping. Vice Chair Ford asked who will pay for it and

who will maintain it.

After further discussion, Commissioner Burt asked if a condition could be added for the City Engineer to evaluate the situation and meet with the neighbors to decide how to best address it. Mr. Blount said it could be passed on to the City's Traffic/Safety Committee with the concerns of the Planning Commission duly noted. Commissioner Burt asked the audience if that would meet the needs of both sides, and there was general agreement, although the applicant reiterated her desire to have a driveway off the cul-de-sac.

Commissioner Keller asked if the original condition could be left in, allowing Public Works staff and the City Engineer to make the final decision as to the appropriate measures to take to restrict the parking. Vice Chair Ford said she was not in favor of considering landscaping as an option, if it meant the applicant would be responsible for installing and/or maintaining it.

Chair Allen said she thought Commissioner Keller's suggestion had merit, to let the Public Works and Engineering staff determine the best options for blocking parking. Vice Chair Ford disagreed again with considering landscaping as an option.

On motion by Commissioner Keller, seconded by Commissioner Waggener, the Commission present, except Vice Chair Ford, voted to deny the appeal and uphold the Zoning Administrator approval of Use Permit #10-07, including adding back Zoning Administrators condition of approval C, adding condition of approval entrance for cottage parking must come from existing entrance for 1401 Linton Terrace, and removing Conditions C & D from Exhibit A, Draft Conditions of Approval (Vice Chair Ford abstained; Commissioners Glover and Kelly were excused).

Commissioner Burt asked whether appeal of the decision is possible to the City Council. Mr. Blount said yes and reviewed the time limits.

COMMISSION ITEMS

None.

STAFF ITEMS

Commissioner Burt asked about future meeting items. Mr. Blount said there were no meetings planned for May at this point.

Commissioner Keller asked about the T-Mobile application by the church. Ms. Mepani said they were not sure yet if they want to move forward.

Mr. Blount noted that the Alhambra Highlands decision was appealed.

Mr. Blount said he didn't think a future joint meeting with the City Council regarding Sustainable Communities Strategies was feasible, although he noted the Commission could come hear the presentation at the May 18th City Council meeting. He added that Martinez has already done what it can to meet the housing and job requirements imposed by Initial Vision Scenario. He asked about Planning Commission interest in the issue, and he said he was willing to provide

copies of the presentation to the Planning Commission.

The Minutes Clerk asked about approval of the minutes for the April 12, 2011 meeting before the City Council hears the Alhambra Highlands appeal. Mr. Blount indicated the minutes could be marked "Draft" if the Planning Commission has not approved them yet. He discussed issues with sending copies to the individual Commissioners for review rather than as a whole.

Commissioner Burt expressed concern about the Council knowing exactly what was said by the Commission. Mr. Blount agreed that was important.

COMMUNICATIONS

The meeting was adjourned at 9:40 p.m., to the next Regular Meeting, Tuesday, June 14, 2011.

Respectfully Submitted,

Approved by the Planning Commission
Chairperson

Transcribed by Mary Hougey

Donna Allen