

there were potentials for conflict given the overlap, and if he could understand what the end goal was, as well as, the limitations of the subsidiary district and goals and limitations of the NPO, it would help him on how all the other pieces come together and why the overlap is necessary. Agency member Tatzin agreed and felt this information could be discussed in an upcoming meeting.

Executive Director Falk suggested holding a workshop format and invite library advocates in to discuss the issue further. Vice Chair Federighi said she wanted to flush out more the differences between the advantages and disadvantages as opposed to the Park District model discussed by Agency member Anderson. Agency member Tatzin felt it came comes down to motivating volunteers and allowing them to have influence with programming.

Executive Director Falk felt there was more to it than just programming, and felt some would care whether there are specific items in the library and they were trying to engender ownership, so we want to associate those volunteers into the process. Agency member Anderson asked staff to contact the Park District Foundation representative about how they handle their agency Board.

Chair Samson requested staff bring the item back in a workshop format with more specifics on goals and limitations of each of the two bodies and also information on what other agencies have done and Executive Director Falk agreed to schedule something within 6-9 months.

### **Adjourn Redevelopment Agency**

**ACTION:** It was M/S/C (Anderson/Tatzin) to adjourn the Redevelopment Agency and reconvene as the City Council. Vote: 4-0-1 (Ayes: Anderson, Tatzin, Samson and Federighi; Noes: None; Absent: Anduri).

## **11. COUNCIL/COMMISSION REPORTS**

### **A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda**

Recommendation: Receive and file.

Vice Mayor Federighi noted the City received a letter and information regarding recent land use decisions and recommended staff provide an update on current bills that were pending which could affect Lafayette. City Manager Falk noted staff receives current information from the League of California Cities, forwards the information onto the Council, and if there are issues with significant relevance they are called out and brought forward to the Council.

### **B. Ivor Samson, Mayor**

**Request to appeal the Planning Commission's approval of HDP18-05 Ward-Young Architects (applicants) Paul & Alison Cocotis (owners): Request for Hillside Development Permit for a single family residence located on a vacant lot at 11 Hawk Canyon Place. APN 238-190-002**

Recommendation: Discuss and determine if council will accept Mayor Samson's request to appeal the Planning Commission's approval of HDP18-05 Ward-Young Architects (applicants) Paul & Alison Cocotis (owners): Request for Hillside Development Permit for a single family residence located on a vacant lot at 11 Hawk Canyon Place. APN 238-190-002

City Attorney Mala Subramanian reported Mayor Samson has requested the Council consider an appeal from a Planning Commission action which would require a majority of the Council's approval. If there were three members who object to the request, it would be considered abandoned, and Mayor Samson disclosed that he had two conversations with the applicants, Paul and Alison Cocotis. Councilmember Anderson confirmed the appeal would be a de novo hearing.

Mayor Samson noted his letter dated March 16, 2006 recites the three reasons for his appealing the Planning Commission's decision; 1) visibility; 2) review of the record and not understanding the underlying basis why the Planning Commission started with a base of a 4,000 square foot home and then looked at the visual impacts of incremental revisions in addition to 4,000 square feet as opposed to starting with a different number; and 3) due to absences at the Planning Commission hearings, the action was approved by three Planning Commissioners. He felt that the action should have been taken by a majority of the members and/or should have had full review given the design, location, and associated hillside impacts.

Vice Mayor Federighi confirmed with the City Attorney that the request for reconsideration would be sent to the Planning Commission. She noted the time period lapsed, so it would not qualify under the standard 14-day appeal period and it would be a subsequent request for a motion to reconsider which would need to come from a Planning Commissioner. She said there was no new information and typically those were the grounds for a motion to reconsider.

Vice Mayor Federighi believed the Council had never grappled with what was a proper threshold square footage for a lot such as this one, which is highly visible and where a house has the right to be built.

Tim Ward, Ward/Young Architects, applicant, noted, regarding Mayor Samson's second point, from the minutes in April of 2005 when they were determining the site location for the project, there were three sites. The final site was selected to be up against the trees as far back as possible, which was Site A. At that time, he reported there were a number of discussions about size. Three members (Holt, Harris and Lovitt) said it was premature to set a number until they saw an actual design. At which time, three members (Mitchell, Chastain and Humann) said they felt the 4000 square foot as a threshold was a base. At that time, the representative from Burtonvalley.com agreed that visual impacts should be more important than size.

Mr. Ward mentioned when they went to design review, Hertel, Cleaver, Blodgett and Lee all said size was not the issue; that visibility was and a comparison would be mandatory. Commissioner Chastain was at the meeting as a liaison from the Planning Commission and he fully explained what their concerns were going to be. Therefore, from that perspective there was a lot of discussion about the 4,000 square foot number, and in reality it was truly the impacts and visibility that they wanted tested if we were going to come in with a project larger than that.

In terms of visibility, Mr. Ward said they agree there are a number of places you can see the house. But uniquely, because the site is on its own knoll, one would have to pull out beyond Somerset to start to see the house at all. He felt it was agreed by the Design Review and at the Planning Commission that impacts of visibility were going to be mitigated by landscaping and berm created for either design. He noted they put up story poles for both the 4,000 square foot house and the proposed house and had them up for three a half months and everyone had ample time to look at them. He believed from that perspective, Design Review felt the visual difference between the two was imperceptible because as you get out at those distances, the differences were very slight.

Councilmember Anderson questioned and confirmed with Mr. Ward that the Planning Commission said visibility and not size was the issue as well as Design Review. He said then somehow they got to 4,000 square feet and asked how that happened. Mr. Ward said three commissioners at the first meeting brought up 4,000 square feet and they discussed it. Three of the commissioners then said if the applicant comes back with a house larger over 4,000 square feet, it better not show impacts. Councilmember Anderson stated those three were not a majority, therefore, there was not a Planning Commission direction that this was going to be a minimum of 4,000 square feet. Mr. Ward disagreed and stated Commissioner Humann said he agreed with what Commissioner Chastain was saying said he thought Chastain's comments had to be directed directly to Design Review Commission so they did not miss that point about the comparison.

Councilmember Anderson confirmed with Mr. Ward that the story poles then only reflected either 4,000 square feet or greater than 4,000 square feet, and there was no assessment of anything smaller than 4,000 square feet in terms of visibility.

PAUL COCOTIS, 154 Margarido Drive, owner, said from day one in September of 2004 they reached out to all community neighbors, distributed over 60 flyers to homeowners, talked to many people about the project, walked the site, tried to keep everyone informed, said the poles were up for months before their approval, they had no one come to the hearings, there was no public comment or disagreement on the project for 18 months, and he wished someone from Burtonvalley.com was there at the approval hearing, so that their concerns could have been addressed at the Planning Commission level. Mr. Cocotis noted that it was disappointing no one had attended that meeting and voiced their concerns. His point is that they went through the process set forth by the City, they did a study session, followed direction of the Design Review Board and Planning Commission, and not once in any of the meeting minutes will the Council see a request to reduce the square footage of the house; the discussion was centered upon minimize visibility or to satisfy. The three members of the Planning Commission that were most concerned about the size were all at the Planning Commission approval hearing; Commissioners Chastain, Humann, Mitchell and Ateljevich, who all talked about ensuring that the house was not too visible. He felt the process followed procedures, said the Design Review Board voted unanimously, the Planning Commission voted 3-1, said the process has been very long, and hoped the Council understood that they did everything right.

Councilmember Tatzin reported that a note was received from Councilmember Anduri for the record.

#### PUBLIC COMMENTS:

ROBIN PICARD, PO Box 1698, Lafayette, reported that he was at the meeting at Planning Commission meeting and he can see the building site clearly; felt size was an important issue especially since it might set precedence for building on ridgelines. He talked to many neighbors, and most were under the impression that ridgelines were protected, therefore, they were not aware that the development was a possibility and this might explain the reason for the late response. Since the structure could be seen so far away, the notification procedure was not appropriate because it does reach people very far away. He pointed out that the Design Review Board requested that a smaller footprint plan be submitted for their review, which was not done which was noted at the meeting where the plan was recommended to the Planning Commission on for the final vote. Many commissioners were upset that a smaller floor plan was not submitted. So, he felt size was very important, the Design Review Board did request smaller

plans, and larger plans were submitted. He hoped that the Council would re-hear the approval and noted that size was important and would affect visibility.

TOM OLSEN, 3237 Lucas Circle, said he was not able to attend the last meeting, met Paul and Alison Cocotis after they bought the property and was looking forward to them being neighbors. He noted he lived on the back side of the property, said because of the size of the house it was being pushed back to the edge and they were right below that. Their only concern, which was included in his letter, that he would like an area or easement from the edge of that property or some sort of an adjustment so the house was not immediately on the edge.

CLIFF TONG, 9 Dianne Court, Burtonvalley.com, said Mr. Ward is correct; there was considerable discussion regarding visibility. He agreed it was hard to put a number on visibility. He understood that 4,000 square feet was a baseline and they were going to evaluate visibility at 4,000 square feet and see where they were. He saw the staff report that the house had grown to 5900 square feet and he visited the site, Tom Chastain voiced his concerns that this was not agreed to, and it was not meant to be a minimum square footage. He wondered why we were not looking at a way to minimize visibility, whether it was less or greater than 4,000 square feet, we somehow changed the bar and it went from 4,000 to 5,900 to 6,700 square feet, instead of going from 4,000 down to 2,000. He said when the story poles were put up; they were mounted on the western side facing the most visible parts of Burton Valley. On April 21 at the Planning Commission hearing, he suggested reducing the size of the structure and move it back into the trees further. He was disappointed this did not happen and the visibility analysis showed the difference between 4,000 and 6,700 square feet, which was a problem in terms of changing the standards involved. He further stated he was not able to attend the Planning Commission hearing on March 2, however, he did not see any discussion about the exception of a Class 2 ridgeline. Basically, they were within the ridgeline setback area and the bar needs to be much higher in terms of substantially concealed and to the extent possible in terms of minimizing visibility. In his opinion, he did not feel the Planning Commission did an adequate job of analyzing this and the Design Review Commission was also under pressure from seeing all the plans coming in and was under a time crunch to get something back out.

ALISON COCOTIS, 154 Margarido Drive, noted it had been represented that they were instructed to reduce their original square footage and this was not the case. She said they were instructed to show their design and said it would not reveal a significant visual impact if their design was bigger than 4,000 square feet. They were never instructed to reduce the square footage of their original application in return for being sited at Site A at the top of the hill and said they were always instructed to reduce visibility to the Planning Commission's satisfaction and said she satisfied them one month ago.

Mayor Samson reported an e-mail was received from Councilmember Anduri, as he was out of the country, which indicated support of the request for appeal of the Planning Commission's approval of the project.

Vice Mayor Federighi mentioned she felt uncomfortable with the request and she read the minutes; therefore she believed that no matter what was built on the property, it would be visible.

Councilmember Anderson stated he was comfortable with the appeal request and believed there were pieces of information which were dropped, that the minutes reflect more information and voiced concern that due process was not fully provided.

Councilmember Tatzin noted the applicant most likely would want to start construction this year and inquired about the timing of the appeal. Assistant Planner Glenda Warmoth reminded the Council that the appeal, is de novo I, and the Council would be re-evaluating the entire merits of the applicant, as such the applicants may want some time to prepare, and felt the next Council meeting would be too soon. . She suggested the first meeting in May. May 8, 2006.

Tim Ward requested holding the appeal hearing on April 24, 2006, and Mayor Samson noted his absence from that meeting; however, if his case settled, he would be present.

Councilmember Tatzin stated in order to help the applicant prepare, he confirmed the Council was looking for a comparison of the Planning Commission approved plan with a smaller design. Councilmember Anderson agreed and felt there was agreement that the difference between the 4,000 and what has been approved by the Planning Commission was insignificant in terms of visibility. Councilmember Anderson stated that the issue is City Council never had the lower limits of possibility test, therefore, we are talking about moving below 4,000 square feet and trying to understand what the visual impact is, how much more can it be reduced if we get to a smaller footprint, which would take thought and time.

Assistant Planner Glenda Warmoth asked whether the Council was looking for a visual analysis that compares a 3,000 square foot house to a 4,000 square foot house, or was Council looking for architectural floor plans of a smaller home as something that would better meet the approval test and findings. Mayor Samson responded that the concern was an emphasis on visibility and secondary, size, which are somewhat related. His concern was that 4,000 square feet was given as a baseline for reasons the Council is not sure of and in reading the record, it is not understood how this was a given number. He inquired whether there was a size that would be less than 4,000 square feet that could have an impact in reducing visibility and still be a viable home, as he felt no one had looked at this.

Vice Mayor Federighi was of the belief that the Council should provide a square foot number to the applicant. Mayor Samson mentioned the best direction would be that is there a reduction in size that would have a significant impact on visibility. Councilmember Anderson and Mayor Samson both felt it should be less than 4,000 square feet with an eye toward reducing visibility due to the fact it has not been tested, while still maintaining an economically viable home.

Assistant Planner Glenda Warmoth asked what the Council would consider as substantially visible, such as certain streets on the viewing analysis that the project should be hidden from. Councilmember Anderson responded that all of those elements were set forward in the process that's already been gone through. He felt people looked at the structure as proposed and made an assessment of its visibility. The problem with the process he was concerned about was that for some reason there was a threshold set in terms of the size of the building. Therefore, there has been no exploration for a smaller building; it's always been 4,000 or greater than 4,000 square feet. He believed the Council was looking to test lower than 4,000 square feet and getting it down as least visible as possible, and the goal was concealment to the maximum extent possible.

**ACTION:** Council accepted Mayor Samson's request to appeal the Planning Commission's approval HDP18-05 Ward-Young Architects (applicants) Paul & Alison Cocotis (owners): Request for Hillside Development Permit for a single family residence located on a vacant lot at 11 Hawk Canyon Place April 24, 2006. APN 283-190-002

## **12. WRITTEN COMMUNICATIONS**