

could agendize the matter for July and most likely it would take one meeting for the Commission to arrive at a recommendation.

Vice Mayor Anderson confirmed with City Manager Falk that it would take approximately six months or less to order, purchase and install the meters.

Mayor Federighi added that the number of available timed spaces was over 200. If 200 permits were sold, employees would use about 100 and felt there would also be left-over parking for the public. She felt the trial period should be monitored and the Circulation Commission should review the matter. She felt the idea was to get employees out of the lots and to achieve the most convenient parking for patrons to move them in and out.

Councilmember Tatzin supported sending the employee parking to the Circulation Commission, encourages them to look at unintentional side effects and may be shifting the problem around. For example, if employees park on the west side of town, what does that do to attract visitors of the Veterans Memorial Building that need that same parking? On the east side, what does this do to the hotel that may require large event parking? Or businesses in an area where there are no meters that rely on the 2-4 hour parking zones, where currently, employees park there and stay there all day. He also suggested the Commission talk to property owners of where the employers are located.

Councilmember Andersson felt the Circulation Commission could identify secondary issues and also utilize their expertise to provide guidance on what a useful test would be in the number and locations of permitting.

Vice Mayor Anderson agreed but asked that staff start the process of ordering meters. He felt that given the scope, it might take more than a couple of meetings and additional work of the Circulation Commission.

ACTION: It was M/S/C (Anderson/Tatzin) to adopting the proposal to install 97 new metered spaces, implementing the multi-space meter pilot project using the 15 spaces in front of Lafayette Mercantile. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

ACTION: It was M/S/C (Tatzin/Andersson) to refer the employee permit program to the Circulation Commission and return their report/recommendation to the Council in September. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

ACTION: Council consensus was reached to encourage finding and implementing employee parking on small lots in the downtown.

9. PUBLIC HEARINGS

A. Greg Wolff, Senior Planner

APPEAL BY THE APPLICANT OF THE PLANNING COMMISSION'S DENIAL OF: HDP97-06 ERIC STRAND (APPLICANT & OWNER), LR-10 ZONING: Request for: (1) Hillside Development Permit pursuant to Section 6-2015 of the Lafayette Municipal Code (LMC), (2) Design Review approval pursuant to Section 6-1903 LMC, and (3) Grading permit pursuant to Chapter 3-7 LMC to construct a new, approximately 4,000 sq. ft. one-story single-family residence with basement with a maximum ridge height of approximately 29-ft. above existing grade on a 5.3-acre vacant parcel in the Hillside Overlay District on Burton Ridge at 10 Vista del Valle

off Michael Lane. APN 238-080-035 (Reference siting determination application HDP70-04 and previously withdrawn single-family residence application HDP83-05).

Recommendation: Staff recommends that the City Council (1) find the proposed site represented by the current story poles is the most appropriate building site on the property; (2) direct the applicant to submit exhibits illustrating the comparative off-site visibility of the 2,400 sq.ft. versus the 3,600 sq. ft. designs; and (3) direct the applicant to continue design development and submit critical information on site development including the driveway, retaining walls and outdoor living area.

Senior Planner Greg Wolff said the matter before the Council is an appeal of the Planning Commission's denial of the hillside development permit. The Council last considered the matter on April 23 and at that time the applicant presented some design drawings, sitings and sections that had not yet previously been considered. The applicant was asking for approval of the project which, by Council's consensus, revealed not enough detail, but they indicated their desire to go out to the site and gain information, evaluate it and return with a greater amount of detail provided by the applicant to establish building site and further design.

Staff scheduled a noticed site visit on May 21st, where both Councilmember Andersson, Vice Mayor Anderson, Mayor Federighi, the Planning Commissioners, the public and staff had attended. Story poles revealed a 3,800 square foot residence exclusive of the garage and photographs were contained in the staff report. The goal was to take in information, come back and have a discussion on the record at tonight's meeting.

Mr. Wolff said the applicant brought a model and some photo simulations and staff is recommending the Council discuss the proposed site represented by the current story poles and continue the matter to a future date to allow the applicant to provide additional detail with site development. At this time staff does not have information on the proposal's driveway, grading, retaining walls, and other design features.

Councilmember Tatzin disclosed that he had separately visited the site, and he confirmed with staff that the story poles were not the same location as when the Planning Commission had originally reviewed and acted on the proposal.

Mayor Federighi said there was discussion at the meeting on May 21st site visit about perhaps pushing the house site further down the swale. She confirmed the story poles and the simulation in the staff report were reflective of the site visit, as Mr. Wolff said the story poles have remained unchanged and all exhibits are based on that location and not moving them further down.

Councilmember Anduri said he read all materials, was not present for the April 21st site visit but visited the site with Greg Wolff. He asked whether or not the Council would handle the project all the way through now or would it be sent back to the Planning Commission. Mr. Wolff said this was Council's decision; the project could remain with the Council to determine siting, massing and design or it could be referred to Design Review Committee and/or the Planning Commission for refinement. He said that an alternative would be to say this is the site, agree with the Planning Commission that the process would be with the 2,500 square foot design and ask the applicant to show that building a larger design would not have a significant impact and then have it heard again. This would be a new application with the appeal being referred back for Planning Commission review and then final action by the Council. The Council has indicated that they want the applicant to follow through with the process, demonstrating a 2,500 square foot home.

Vice Mayor Anderson said the June 27th plan shows two different plans and he confirmed it was the difference between the two house sizes. The PDF attached also showed similar drawings comparing each. Mr. Wolff said it was staff's interpretation of the drawings that the applicant is attempting to answer what a 2,500 square foot house look like versus a 3,600 square foot home. The drawings address this in an initial step but do not flush it out. The PDF represents those drawings, but rather than having the west elevations on two sheets, staff put them on the same sheet.

Mayor Federighi asked that with the simulations, the west elevation looked very similar. With the south and north elevations there was a decided difference for obvious reasons due to the length of the house. She asked how well-hidden was the south and north elevations and how would the Council make that determination. Mr. Wolff said the south and north elevations were the side elevations of the residence and the best way to make this evaluation is to view the story poles. Having been on site, you pass beyond the paved driveway and crest and descend into the swale where the home is proposed, and this was the north elevation. He felt there was very little off-sight visibility of the north and south views because it was screened by the knoll and oak on top. The vast majority of house is the west elevation and possibly only a corner of the north and south elevation could be seen. So he felt that it was a function of the width, height, articulation, shadow development and the like.

Councilmember Andersson said he went across to the southwest side of the main road to view from their driveways. You can see the south elevation, but just the top front corner of that elevation and very modest landscaping covering the edge of the knoll, which completely screened it.

Mayor Federighi opened the public hearing.

ERIC STRAND, Applicant/Appellant, said they built the model and the garage was removable. He said they could not screen the home from the west; there were no houses from the north side and no views from the south side. He said the road and retaining walls would be the same and he asked if staff could approve this. They have chosen the same roofing, same windows and colors.

Councilmember Anduri asked what would Mr. Strand's ideal outcome be, and Mr. Strand said it would be to approve the footprint of the house, its location, and if the house were moved, they would lose the protection of the knoll. Councilmember Anduri confirmed with Mr. Strand that he would not be happy if the Council sent it back to design review after having spent 3 years on it, but it was their decision.

Vice Mayor Anderson voiced concern with the driveway and confirmed with Mr. Strand that minimal grading change would occur if the house were moved back further into the hillside due to the swale being the same elevation.

TIMOTHY SHEA said he likes the demonstration and described where he lived across the front west side of the project. He said he watched the progress of homes in the ridgeline since 1979 and felt that the basic concept was preserving the natural beauty of the ridge and he felt the current story poles for the development encroached on the ridge. Not only will the Strand's be able to look in his front room and bathroom, the home will block the ridge line. He reviewed the drawings and said the northwest corner could still be seen, and the driveway and grading were

obvious. He strongly requested the Council reconsider the development by either moving the house down more or moving it over closer to the tree.

Councilmember Andersson said the Council had discussed bringing down the house lower and one difficulty was massive retaining walls and not a lot of house. Mr. Shea felt more grading would be needed and would cut into the ridgeline.

Mayor Federighi reminded Mr. Shea that the owner had a right to build a house, as it was a lot of record.

Councilmember Anduri said the Council has a challenge in that they need to find out where the house should go on the lot of record and asked for Mr. Shea's suggestion. Mr. Shea said he was not an expert, felt his main concern was that this particular property was devoid of trees and if a house was placed there, it would stick out and not be aesthetically pleasing to where he lives.

Mayor Federighi said there was no question the house could not be seen from where he lives, but the challenge is to select the best site least visible and to minimize off sight visibility, but she reiterated that the owner was not prohibited from building.

CLIFF TONG thanked the Council for scheduling and participating in the site visit, thanked Mr. Strand for putting up the story poles, felt it provided a much clearer picture, agreed that the site chosen was the best overall site and better than the previous one denied by the Planning Commission, but he cautioned that the way the story poles were oriented. He said it supported the depiction of the west elevation as most critical and least impacted by a 2,400-3,600 square foot increase. He agrees with staff that we need to do homework on the full hardscape and he questioned if there would be minimal impact by adding the additional 1,200 square feet. If Mr. Strand's contention is that it will not make a difference, the Council can agree to a 2,400 square foot design and make better use of the flat area, making a less visible and massive structure by going back. He felt the Council should go back to the process the Planning Commission recommended--look at the 2,400 square feet and get the best possible design, whether it means slight modifications. He normally would agree sending a site recommendation back to the Planning Commission or Design Review Committee would be a good idea, but feels the Design Review Committee did not take the Planning Commission's direction on this process and wasted time. In absence of a strong directive from the Council, he wouldn't be inclined to send it back to Design Review. He agreed the west elevation would be most critical, the north and south less critical and felt the south would be hidden by the berm. And, the lower one goes down on the west elevation, they will get a different view than from St. Mary's and you might not see more additional square footage or grading from a closer distance and see less of the back.

SHERRY HOOVER, echoed Cliff Tong's comments, thanked the members of the Council, the Design Review Committee and Planning Commission for attending the site visit on May 21st. She looks directly on the property as does many neighbors, thinks it is the least objectionable site, would not see it pushed back up the hill, and also did not want to see another driveway. She reminded the Council that this was not just visible from a few places, but everywhere from Burton Valley and it would look a lot bigger from St. Mary's Road, and therefore recommended sending it back to the Planning Commission and getting a full set of plans.

DON EISENBERG repeated what he said at the Planning Commission meeting; that the hillside is the view from his house, the tops of story poles was what he could see, but from his larger windows story poles could be seen in the middle of the window, and if the house was moved

down a little, it would interfere less with his views of the ridge. He also said he appreciated all the work of the Planning Commission, DRC and Council, as it was better than it had been.

GREG WOEHRLE said he could not see the house at all, felt it was an issue of square footage; he has been building for 7 years and does not build functionally obsolete homes because ultimately, it would not be the right home and he has always started at a minimum of 3,400 square feet. He felt that amount provides for the right spaces for rooms, especially in a single story house. He said his family was busting at the seams with 5 kids in a 3,000 square foot house, and looking at the elevations and the way the house was stepped into the hillside, he felt it was not that bad, and the Strand's have done a good job. He felt the citing was one of the best locations from a visibility standpoint and reiterated the square footage issue and agreed with what the applicant proposes.

Rebuttal:

ERIC STRAND said he was sorry that the Council was in this position, acknowledged that his neighbors would see the house, felt it was in the right spot, said the experience was a nightmare for him and thanked the Council.

ACTION: It was M/S/C (Tatzin/Andersson) to close the public hearing. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

Mayor Federighi said the Council must decide whether or not the site was right, whether we think the application is sufficiently complete and approve the footprint or not, and whether or not to continue the process at the Council level or refer it back to Design Review and/or Planning Commission.

Councilmember Tatzin suggested having a different proposal. He respects all that has been done, said the project came to the Council as an appeal of the Planning Commission's denial. The Council's options are to uphold the denial without prejudice, waive fees for a new application, and felt they did not have a complete application for a new project. He felt it was a good basis to uphold the denial, indicate progress has been made, felt the Council could include a memorandum to the file indicating the location looked good or more attractive than previously, that the design has some features we like or don't like, and let it move on. He felt the Council should be very careful about what steps it took. While he felt the design was better, a relatively simple action of upholding the denial without prejudice should be done, waiving the re-application fees and then sending a memo to the Planning Commission or DRC was the route to use.

Councilmember Andersson said he was not a big fan of the Planning Commission's proposal to start with 2,500 square feet and add to it if the applicant could prove it had no impact. He felt the application was not complete but there was enough to make some conclusions. If the west façade is raised, it is visible to the ridgeline. If you move it lower, other issues arise, and he felt the west façade was where it should be. Secondly, in looking at the garage, he felt the drive would have to come down lower to the garage. However, the higher the garage, the less grading, less retaining walls, less visible road, so he felt the best spot was at the higher elevation. Given the garage was above the west façade, the view was from below that and most likely one would not see the roofline from the west façade. So, whatever was in-between was not visible. In conclusion, he felt the 3,600 square feet was no more visible than the 2,500 square feet and felt the Council should send it back to the Planning Commission and indicate to

them that this is the right footprint and within the footprint the larger square footage works in the minimally visible scenario.

Vice Mayor Anderson said he was confused about the denial aspect of this and agreed with Councilmember Tatzin. He felt the Council should give direction to the Planning Commission, agreed it was the right site and that it has been shown that the comparison was proven in terms of visibility. He was concerned about the driveway, retaining walls and everything that gets to the garage. So, for him, it was something to either be seen by the Council or sent to the Planning Commission to work out. If it goes back to the Planning Commission, he recommended sending some clear direction that the Council found the site, we are okay with the square footage but are looking for more information about the access and how it will be carried out relating to visibility and screening. Therefore, he felt denial and a clear statement from the Council would get it back to the Planning Commission.

Councilmember Anduri said his concern was that the biggest visibility problem would not be the house, but the driveway. One of the speakers pointed out that what you really see on the other house to the west of this house was the gouge in the hill and he was worried this would continue across. He said it almost makes him wonder whether or not the Council is looking at the wrong tradeoff. He questioned if there was some way to be creative with what is done with the driveway such as berming so it does not appear to be a slash in the hill. If it goes back to the Planning Commission, he would like them to focus on a way to minimize visibility of the driveway.

Regarding square footage, Councilmember Anduri said many of us grew up in small houses, have grown up perfectly fine, and he disagreed with Mr. Woehrlé's statements about square footage. He also voiced concern with Councilmember Andersson's suggestions and said he liked the way the Planning Commission approached this. It appears that you can do the 3,600 square feet and it will not make a difference, so he felt the Council needed to send that message, but he felt the Planning Commission should review the project again. On the balance issue, he felt neighbors will see this and it will always be there. Given the City's ordinances and what we are trying to do to minimize visibility and knowing something will be built on the lot of record, he felt this was the best we could do. He felt the Council should deny the appeal, waive the fees, and the applicant can then submit an application with the Council giving guidance to the Planning Commission and he felt the Council did not need to see the project again.

Mayor Federighi said she did not disagree with that direction, but was not certain the Council actually needed to deny. She was pleasantly surprised that the applicant had been able to successfully demonstrate that a larger house would not make a significant difference. If the south and north elevations were barely visible, she felt the application was on the right track. She felt the Council should indicate this was the best location; we should give the Planning Commission some clear direction with a task to minimize access as much as possible.

Councilmember Andersson proposed the following direction to the Planning Commission; 1) the west elevation, lower part of the house is located correctly and in the preferred spot; 2) that the garage be located and the drive should be located to minimize the grade; 3) that the square footage to fill in-between those and 3,600 square feet of the building has no more visibility than the smaller one.

Councilmember Anduri and Vice Mayor Anderson agreed it was important to state the 3,600 square foot figure, as the Council got the demonstration of what was needed and should allow this square footage to move forward.

Councilmember Tatzin said his reservations come not from this application but from prior applications, where the Council had given similar direction and the Planning Commission reacted, feeling that Council was taking control and they just approved a project. He felt this would look okay, but giving the Planning Commission such specific direction on what was truly an incomplete application was going too far. He suggested backing off and acknowledge that when the specific application is presented which has design, grading and other things worked out, they might come to a different conclusion. He felt they should be allowed the freedom of exercising their judgment.

Mayor Federighi felt the Council should give some clear direction; otherwise, it was a waste of time on the part of the applicant. We are hearing an appeal; that just to go back and ask the applicant to submit a new application without information to the Planning Commission was not right. Councilmember Tatzin said he felt Councilmember Andersson's comments were too specific. Councilmember Anduri agreed and felt the message should be one of guidance.

Councilmember Andersson felt the key things were: 1) the location of the west anchors the structure and there seems to be agreement for siting; 2) that the garage and the driveway should be placed to minimize the grading however that works, and what happens in-between with the garage and front will happen. And, it appears that this can happen in the range of 3,400 to 3,700 square feet. But, he said he was not set on square footage and felt there was enough flexibility for the Planning Commission to work from. City Attorney Subramanian suggested that in looking at the staff report, it appears the denial is based off an incomplete application. But the main direction was to provide direction between the 2,400 to 3,600 square feet. She felt it might be prudent to allow the applicant a specific amount of time to submit a new application.

Mayor Federighi said the denial was a denial of the applicant's appeal of the Planning Commission's denial, but she felt the Council should send it back to the Planning Commission, it should state very clearly that Council did the various things of what Councilmember Andersson outlined, including the garage as well as the drive needing to be minimized for grading. She felt it appears that a plus or minus 3,600 square foot home would not be significantly more visible than the 2,500 square foot home that was requested.

Councilmember Anduri confirmed with the City Attorney that the Council would not technically send it back to the Planning Commission; just deny it and provide comments. City Attorney Subramanian agreed, but said it appears that the Council was denying it because it was an incomplete application so the Council may just want to allow the applicant an additional amount of time.

Councilmember Tatzin said the Council was actually denying it because the application that was before the Planning Commission was not one the Council would approve. There is now a proposal upon which the Council is taking no action and if there is an upholding of the denial that the Planning Commission rejected, that's all that would be done. He said the Council would send a memo back to the Planning Commission that states, based on the incomplete application we saw, here are some comments about it. If there is a subsequent application, then the Planning Commission could refer to the Council's memo. He felt the applicant could apply anytime up to a year, but the City Attorney suggested a timeframe be provided because there were cases where applicants could return 15 years later, and identify as to when fees would be continued to be waived.

Vice Mayor Anderson felt this had gotten complicated because what the Council is looking at now was never considered by the Planning Commission, and said although it was a de novo process, would the Council still need to stay within the bounds of the question of the denial? City Attorney Subramanian said the Council can, but if the Council were interested in looking at the alternative application, it could keep the entire project here and look at the revised plan.

Vice Mayor Anderson said he also sensed though that the Council did not want to keep it here and would rather send it to the Planning Commission, and Ms. Subramanian felt that no matter what, the Council should be the final decision-making body, but the Council could choose to make certain decisions and refer back to the Planning Commission or DRC.

MOTION: Councilmember Tatzin made a motion to uphold the Planning Commission's decision to deny the application without prejudice, waive the application fees not relating to on-going processing for a period of two years, the Council would prepare a memo that the Council would adopt at the same time they would adopt the upholding of the denial which would go into the file and available to the Planning Commission and to the public should there be another application, and that all of this would return to the Council as a Consent Calendar item for review.

DISCUSSION: Vice Mayor Anderson said part of the problem was that the site proposed was never identified by the Planning Commission and the process might unfold again. Councilmember Tatzin encouraged having Councilmember Andersson to work with staff to draft the memorandum, and City Attorney Subramanian said she could incorporate all of this information into the resolution, work with Councilmember Andersson and return to the next meeting and place the item on the Consent Calendar. Councilmember Tatzin encouraged having the memo drafted soon enough in order for Eric Strand to review and comment on it prior to the meeting, and Mayor Federighi said the item could also be removed from Consent for discussion or modification if needed.

ACTION: It was M/S/C (Tatzin/Andersson) to uphold the Planning Commission's decision to deny the application without prejudice, waive the application fees not relating to on-going processing for a period of two years, the Council would prepare a memo that the Council would adopt at the same time they would adopt the upholding of the denial which would go into the file and available to the Planning Commission and to the public should there be another application, and that all of this would return to the Council as a Consent Calendar item for review. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

10. CONSENT CALENDAR

Convene Redevelopment Agency

ACTION: It was M/S/C (Tatzin/Anderson) to jointly convene as the Redevelopment Agency. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

ACTION: It was M/S/C (Tatzin/Anderson) to approve Consent Calendar Items 10A through 10F. Vote: 5-0 (Ayes: Federighi, Anderson, Andersson, Anduri and Tatzin; Noes: None).

A. City Council Minutes

May 29, 2007

Recommendation: Approve.