

Jackson Planning Commission
Minutes
Special Meeting of November 21, 2005

COMMISSION MEMBERS PRESENT:

Dave Butow,
Warren Carleton, Vice-Chair
Wayne Garibaldi, Chairman
Terri Works

CITY STAFF PRESENT:

Susan Peters, City Planner
Michael Daly, City Manager
Candy Collins, Accounting Assistant

COMMISSION MEMBERS ABSENT:

Rosemary Faulkner

CITY STAFF ABSENT:

Chairman Garibaldi called the meeting to order at 6:00 p.m.

1. Public Matters Not on the Agenda.

None

2. Public Hearing – Variance 2005-04, Carson Townhouse Assoc., 50 Westview Drive, APN 044-352-045.

City Planner Peters presented the following report:

In September of 2004 the Planning Commission approved a variance and tree removal request to allow for a narrower driveway access to a back parcel of the property and removal of the row of redwood trees that are planted right next the building and are probably at this point damaging the building. Subsequent to that request, the Carson Townhouses Home Owners applied for and received Planning Commission approval of a Tentative Parcel Map to split this vacant lot from the remainder of the town homes to allow for sale and development of the property for a multi-family residence.

Project Description

The applicants are now requesting for a variance to allow construction of a multi-family residence to encroach into the 20foot setback that are all the way around the property. When this subdivision was developed they put a 20feet setbacks on all sides of this property. The normal setbacks requirements are 25feet in the front, 5feet on the sides, and 10feet in the rear. What they are requesting is to keep the setbacks of 20feet in the front, but they would like to be able to have 10feet in the rear and 5feet on the sides, which is consistent with the ordinances we now have but different from what was approved on the recorded map. There is a sewer or a storm drain facility that runs through the property, making placement of the structure difficult and as a result they are also requesting that the oak tree which is in the middle be

removed because they are having a hard time fitting the structure in and staying away from the easement that they need to stay away from for the storm drain facility.

Environmental Review

While variances are typically subject to the California Environmental Quality Act (CEQA), projects, which have no possibility of causing an environmental impact, can be categorically exempted from CEQA review in accordance with Section 15061(b)(3) of CEQA.

Findings

The following findings must be made for this project to be approved:

1. There are special circumstances applicable to this property (lot configuration), which deprives the property of privileges enjoyed by other property with a similar use.
2. The granting of this variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone.
3. The granting of this variance will not adversely affect the interest of the public or the interests of other residents and property owners within the vicinity.

Action

Should the Planning Commission chose to approve the variance and tree removal for the Carson Townhouse Home Owners the following actions are recommended:

1. Instruct Staff to file a Categorical Exemption; and,
2. Adopt a Resolution approving Variance 05-04 and tree removal for the Carson Townhouses Home Owners at APN 044-352-045 based on the Findings in this report.

Commissioner Butow stated that he felt #1 of the findings was irrelevant because the applicants own the surrounding property.

Dwayne Bianco, applicant answered Commission Butow's question on why they were back asking again to take out the heritage oak tree when they were told on a previous planning meeting to keep the tree and also why they are just now addressing the problem with the drainage by stating that the last time he was before the planning commission he was unaware the storm draining on the northwest side of the lot and he thought that the setbacks were 5feet and 10feet not 20feet. He further stated that he also discovered they couldn't build the building where they wanted to build it because of these issues, the tree became an encumbrance on the property again and thought is couldn't hurt to ask again if it could be removed.

Commissioners Carleton stressed that he felt that it was poor investigation on the applicant's behalf.

Commission Works stressed that she did not feel she could make #3 of the findings.

Commissioner Butow expressed the need for an appraisal on the tree at the applicant's expense, at which the other applicants and the applicant agreed.

Chairman Garibaldi opened the public hearing.

Carla Bowers - Volcano expressed her opinion that the \$5,000 fee for removal of an oak tree too low since her research has indicated that oak trees can value anywhere from \$18,000 to \$50,000 depending on the diameter. When asked where she got her source of data, she indicated she was in communication with Terry Strange who is the Watershed Coordinator for the upper Mokelumne River and is also an Environmental Biologist. She also stated that she would get the dollar value information and give to City Planner Peters.

Chairman Garibaldi closed the public hearing. 6:22 p.m.

Moved by Commissioner Works and Seconded by Commissioner Butow and carried by a unanimous vote to continue this matter until the applicants get an assessment on the tree by an arborist, and better maps are provided showing the lot constraints.

3. Public Hearing - Variance 2005-05, Jamke Myrtakis, 106 Gordon Place, APN 020-332-034.

Project Description

The applicant is requesting a variance to allow construction of a single family residence to encroach 11 feet into the 25 foot front yard set-back.

Discussion

In March of 2003 the Planning Commission approved a variance on this site when it was combined with an adjacent lot. Buddy White brought in plans to have a two single residence straddled to two single family lots and the reason their request was made for the front yard setback decrease was the flood plain location in the rear of the lot. What was granted was a setback to allow the building to move forward. Because this proposed variance is for one structure on one lot as opposed to the previous project, which was one structure on two lots, staff determined that this constituted a new project, which required Planning Commission approval.

Environmental Review

While variances are typically subject to the California Environmental Quality Act (CEQA), projects, which have no possibility of causing an environmental impact, can be categorically exempted from CEQA review in accordance with Section 15061(b)(3) of CEQA.

Findings

The following findings must be made for this project to be approved:

1. There are special circumstances applicable to this property (floodplain), which deprives the property of privileges enjoyed by other property with a similar use.
2. The granting of this variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone.
3. The granting of this variance will not adversely affect the interest of the public or the interests of other residents and property owners within the vicinity.

Action

Should the Planning Commission chose to approve the variance for Jamke Mytakis the following actions are recommended:

1. Instruct Staff to file a Categorical Exemption; and,
2. Adopt a Resolution approving Variance 05-05 for Jamke Mytakis at APN (020-332-034) based on the Findings in this report.

Commissioners discussed the proposed location of the garage and the length of the driveway.

John Esteves, Contractor and representative for the applicant: explained that the architect had drawings of where the flood plain was and he thought it would fit back there but when the permit was ready, Larry White thought it might be in the flood plain. After checking it out, it was discovered to be in the flood path, so it was suggested to get a variance to move forward. Mr. Esteves stressed that you wouldn't be able to get 20feet for parking because it would be in the flood plain. He further explained that when you had the 2 lots together you could have come in on the side of the garage, but with only 1 lot now you can't do that. When asked where he intended to put the garage, he explained it would like the others on the street, at sidewalk level, facing the street but it wouldn't have the 20feet that why they're asking for the variance.

Commissioner Butow expressed his concern and asked what requirements if any the homeowners had for being up against the creek. He also asked if the developers could be required to put up a retaining wall.

City Planner Peters answered by stating that they have to be built to uniform building code and standards for construction in a flood plain. She further stated that floor elevation has to be 1 foot above flood plain. Fish and Game has issues with doing the riprap walls because it speeds up the water and causes problems down stream. The City follows FEMA and the Uniform Building Code requirements in terms of construction around the flood plain.

John Esteves further stated that the garage would be 11 feet off the back with a retaining wall and the house would be built on a 4 foot foundation in back.

Chairman Garibaldi opened the public hearing.

None

Chairman Garibaldi closed the public hearing. 6:37 p.m.

Commissioner Works stated that she agreed with City Planner Peters, that it shouldn't have been a lot but since it is, that the variance should be approved.

Chairman Garibaldi stated that the approval should be based on the merits.

Commissioner Butow stated that he didn't feel it would be impossible to build on the lot as long as it was carefully, but he would have been more comfortable if it would have been 2 lots becoming 1 lot, and building one structure rather than jamming it together and building two, because it gets narrower the further west you get on Gordon Place.

Vice-Chairman Carleton had no comment.

Chairman Garibaldi stated that to his recollection these were difficult lots, that why they were purposed to put the two lots together and even then they were granted a variance, so it was his personal opinion and comment that by purposing the same variance and splitting the two lots is going around what the original planning commission's work was. He further stated that no one will hear a motion out of him to recommend an approval of this variance.

Moved by Commissioner Works and Seconded by Vice-Chairman Carleton and carried by a 4-0 vote with Chairman Garibaldi abstaining to approve Variance 2005-05, Jamke Myrtakis, 106 Gordon Place, APN 020-332-034 based on the findings:

- 1. There are special circumstances applicable to this property (floodplain), which deprives the property of privileges enjoyed by other property with a similar use.**
- 2. The granting of this variance will not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone.**

- 3. The granting of this variance will not adversely affect the interest of the public or the interests of other residents and property owners within the vicinity.**

- 4. Presentation of Smart Code on the Zoning Ordinance – Suzanne Plasse Information Only.**

Suzanne Plasse with the help of **Barbara Sinnett**, from the **Sutter Creek Planning Commission** presented a power-point slide show on Smart Code, put together by Laura Hall. In their presentation they stressed reality and a Smart Growth vision that hopefully could be combined with the zoning update that the Planning Commissioners are currently working on.

- 5. Workshop – Zoning Ordinance. Article V and VI.**

After much discussion between City Planner Peters, Planning Commissioners and some input from the audience, the following changes were discussed to be added or to be further reviewed for Article V.

1. Taking our existing Subdivision Ordinance and move it from Chapter 16 and make it a part of Chapter 17.
2. Further review will be taken in regards to the City Policy on Dedication.
3. **Tree lined streets** along the sidewalks.
4. **17.92.030- Alternative circulation systems** Additional language added to include the ACTC's plan and to have Charles Field's impute on incorporating it into this section.
5. **Preservation of Oaks** to have more language enforcing a more stringent penalty on tree removal.
6. **17.92.100 Overhead lines** Engineer Gary Urzik working on language for underground line.
7. **17.92.130 Street Lighting**. More detailed language on street lighting and put a reference to article 3.
8. **17.92.140 Street names**- language be added that preference be local historic names.
9. **17.94.010 Purpose of Chapter**. Add **E. Promote Mixed Use Where Appropriate**.
10. **17.94.030 C. Relate of open space**. This will be reworded to include preservation of open space and to parity the General Plan. **E. Fences**. Will include reference to Article 3, And will take out the word **wood** in wood-rail type. Council will ask Commissioner Faulkner who was absent to rewrite and rework this section. **F. Gated neighborhoods**. This section will be prohibited unless approved by variance.

- 6. ADMINISTRATIVE REPORTS.**

Adjourn 9:30 pm.

Attest:

Candy Collins, Accounting Services II

Date Approved: February 21, 2006