

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:

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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

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SUBJECT: Hearing on the Gerrity Appeal of the Planning Commission's Denial on April 6, 2005 of the Gerrity Duplex Addition, 03CDP-00000-00155 [Appeal Case No. 05APL-00000-00005] located at located at 6774 Sueno Road/ 6773 Estero Road, Isla Vista, Goleta Community Plan area, Third Supervisorial District

Recommendation(s):

That the Board of Supervisors uphold the appeal by David Gerrity of the Planning Commission's procedural denial (2-2 vote deemed denial) of Coastal Development Permit 03CDP-00000-00155 for the Gerrity Duplex Addition project and approve the Coastal Development Permit.

The Board of Supervisors' action should include the following:

1. Adopt the required findings for the project, included as Attachment A;
2. Uphold the appeal, reversing the Planning Commission's procedural denial of Coastal Development Permit 03CDP-00000-00155; and
3. Grant *de novo* approval of the project subject to the conditions in Coastal Development Permit 03CDP-00000-00155, included as Attachment B.

Refer back to staff if the Board takes other than the recommended action for appropriate findings and conditions.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with actions required by law or by routine business necessity.

Executive Summary and Discussion:

Background

On November 10, 2004, P&D staff approved ministerial Coastal Development Permit 03CDP-00000-00155 to allow for construction of a two-bedroom first floor addition to an existing one-story duplex addressed as 6774 Sueno Road and 6773 Estero Road. Staff approval was based on the consistency of the project with the requirements of the 7-R-2 zone district of Article II of Chapter 35 of the County Code and BAR approval of the project. On November 10, 2004, neighbor Stephen Johnson submitted an appeal of the P&D approval.

On February 23, 2005, the Planning Commission heard the appeal and continued the hearing to April 6, 2005 (see Attachment C, the Planning Commission Staff Report). The Planning Commission directed P&D Staff to return on April 6th with a detailed discussion of the feasibility of various options for revisions to the parking plan for the project. A Planning Commission Memo dated March 25, 2005 (see Attachment D) explored five different options for action by the Planning Commission, including three options that would revise the approved parking and site plan. One option proposed the addition of a fifth parking space, and two of the options discussed revisions that would allow curb cuts along Estero Road for “overflow” parking within the front setback area.

The Planning Commission also directed County Counsel to return with further discussion of their direction on the extent of allowable discretion by the Planning Commission on ministerial projects (see Attachment E, County Counsel Memo dated March 17, 2005). As detailed in the County Counsel memo, direction from County legal staff is that the allowable discretion of a higher decision-making body for approval or denial of a ministerial project should not extend beyond the originally applicable ministerial criteria of ordinance compliance by which staff-level decisions are made.

At the April 6th Planning Commission hearing, a 2-2 vote (Commissioner McGinnes abstained as he was not present during the original hearing on February 23, 2004) resulted in a procedural denial of the proposed project (a 2-2 vote is deemed a denial, without Findings for denial being made). On April 6, 2005, applicant David Gerrity filed an appeal to the Board of Supervisors of the Planning Commission’s denial of the project.

Parking Requirements

The appeal issues center on the adequacy of the ordinance parking requirements for the project, given the specifics of the existing and proposed development. During P&D review of the project application, several neighbors to the property called and/or wrote to Staff and/or attended Board of Architectural Review (BAR) hearings to express their concerns.

Entry to the parking spaces for the proposed project is via a recorded easement over a shared driveway that also serves three adjacent parcels, all developed with duplexes. With the proposed addition of two bedrooms, the dwelling on the subject property would have a total of ten bedrooms, 5 for each duplex unit. The neighbors are concerned that ten bedrooms would create the demand for far more than the required four parking spaces, resulting in tandem parking, cars parallel parked along the side of the driveway easement, and cars backing down the driveway to reach Sueno Road, in spite of having the required maneuvering area to turn around before exiting. Neighbor Stephen Johnson, who had appealed Staff approval of the Gerrity Addition to the Planning Commission, also made public comment on his concern that the congested public street parking in the neighborhood could be potentially further impacted by the Gerrity project.

Per Article II Section 35-72.10, R-2 zone district parking shall be provided as specified in Division 6, Parking Regulations. Under Section 35-108(1) of the Parking Regulations (Required Number of Spaces: Residential), required parking for single family and two family dwellings is two spaces per dwelling unit. Thus, the parking requirement for the proposed project is not determined by the number of bedrooms, bedroom density or anything other than the number of dwelling units. In this case, a duplex unit consisting of two dwelling units is only required to provide a total of four parking spaces, regardless of the number of bedrooms.

Division 6, Parking Regulations also contains specifications for size, location, and design of parking spaces (Art II Sec. 35-114) and landscaping/ screening of parking areas (Sec. 35-115), as well as the required combined dimensions for aisle widths and parking spaces (total backup area). The parking spaces proposed for the approved project meet all Division 6 and 7-R-2 zoning requirements.

Staff consulted with Bret Stewart, Manager of the Public Works Transportation Division as the project plans were evolving. Mr. Stewart concurred that the dimensions for the parking spaces and maneuvering areas were adequate for a residential project (see Attachment F for his memo). County Fire was also consulted, and affirmed that for additions to existing dwellings (in contrast to proposals for new residences) there are no specific Fire Department conditions or requirements for changes to existing access or turnaround dimensions (Martin Johnson, phone communication).

Extent of Allowable Discretion on Ministerial Cases

A related point of discussion at the Planning Commission hearings concerned whether ministerial permit applications can be held to standards beyond the Ordinance-specified requirements when brought before a higher decision-making body on appeal.

Article II Division 6, Parking Regulations Section 35-103 (Purpose and Intent) specifies that “...*The standards set forth in this DIVISION shall be considered minimums, and more extensive parking provisions may be required by the Planning Commission as a condition of project approval.*” However, direction from County Counsel at the Planning Commission hearings and in the attached memo dated March 17, 2005 (Attachment E) is that the above language is applicable to projects that are discretionary in origin (for example, Tract Maps or Conditional Use Permits) only, and that an appeal of a ministerial project does not “bump up” the standards for approval beyond what is allowable in the consideration of a ministerial approval.

Neighborhood Zoning and Parking

The project site lies in a transition area in Isla Vista from where ordinance-required parking is tied to bedroom density (Student Residential zone areas) to areas where it is not (Single Family and Two Family Residential zone areas). Much of the area to the east and south of the subject parcel (including two of the four parcels served by the shared driveway) are zoned Student Residential Medium Density (SR-M). However, most of Estero Road, including the parcels directly east and west of the subject parcel, are zoned 7-R-2 (as is the subject parcel) with no density-related parking requirements, and much of the area from a block further west is zoned Single-Family Residential (R-1) (please see Attachment G for vicinity zoning designations).

The Single Family Residential (R-1) area to the west of the project site lies within a Single-Family Restricted Overlay District. This overlay limits residential development to a maximum of 4 bedrooms and 2,000 square feet per lot, and requires that an additional parking space be provided for residential development in excess of 1,800 square feet. Thus, the R-2 zoned area, including the subject parcel, is the only zone district in Isla Vista that is entirely exempt from density-related parking requirements.

A new Isla Vista Master Plan is in the process of being drafted. Discussion of this plan in relation to the issues highlighted by the current appeal case is constrained by the uncertainty of its future date of adoption or any final revisions that may occur before adoption. However, the future intent is to tie parking requirements to bedroom density in the R-2 zone district in Isla Vista. Under the IV Master Plan, the applicant’s parcel and other R-2 parcels in the vicinity are proposed to be re-zoned IR-25 (Isla Vista Residential), a new zone designation.

In the current draft of the proposed new IR district, parking requirements for single-family or multiple-residential units would be as follows:

- 4 parking spaces per 3 bedroom unit (plus 1.5 spaces for every additional 1 bedroom)
- 2.5 spaces per 2 bedroom unit
- 1.5 spaces per 1 bedroom unit

- 1 space per studio unit

A draft new Isla Vista Parking Plan is also in progress. The plan as proposed for the Sueno Road and Estero Road area would allow for one-hour maximum street parking, and the purchase of residential permits for longer-term street parking.

If this proposed parking plan is adopted, it may impact the current situation in a variety of ways. Semi-permanent street parking by old RVs and by students from nearby dormitories should be substantially curtailed by strict enforcement of resident-only parking permits. However, because there would be a fee attached to residential parking (in addition to proof of residency), there may be additional pressure to squeeze cars into off-street spaces from tenants who wish to avoid the permit fees.

The above discussion serves only to point out that the current R-2 “disconnect” between parking spaces and bedroom density has been identified and is intended to be remedied in the future IV Plan, and that issues of inappropriate uses of available street parking have also been targeted for remediation.

However, draft proposals for future standards cannot be applied to a current application. In processing the Gerrity permit request, Staff has recognized the deficiency of the current ordinance requirements to address the legitimate issues and concerns that have been raised during project review. In consideration of a ministerial permit application, staff discretion for denial is limited to projects that do not meet ordinance standards as specified, or for projects that cannot meet other departmental conditions. It is not a lack of recognition of the potential concerns presented by this project that governs staff recommendation for approval, but rather it is the limitations upon the allowable discretion in the processing of ministerial permit requests.

Board of Architectural Review (BAR)

The Board of Architectural Review (BAR) saw the Gerrity project on May 28, July 16 and August 27, 2004 before giving final approval on October 15, 2004 (see Attachment H for all BAR records). Throughout the BAR process, P&D Staff asked the BAR to comment on the parking plan and the consistency of the project with Goleta Architectural Design Standards and neighborhood compatibility.

The BAR did not find the proposed residence to be out of scale or character with the surrounding neighborhood. Analysis of adjacent and nearby parcels shows a general building size range from roughly 2,000- 5,000 square feet and a lot size range of 7,000- 11,000 square feet, with a mix of one-story and two-story structures. The 3,025 square foot (including proposed addition) one-story duplex on a 9,180 square foot parcel is compatible in size and scale with the existing neighborhood.

While the BAR cannot exercise discretion on ordinance parking requirements, they do address the design and landscaping aspects of a parking plan. The minutes of October 15, 2004 reflect

the BAR Committee's comment that while site parking as proposed is legal, it is in their opinion inadequate. However, the BAR did offer direction to the applicant on the landscaping and screening of the proposed parking area.

The applicant followed BAR direction on site design, aesthetics and landscaping to the extent that the applicant felt to be economically feasible. BAR minutes reflect concerns that design options were constrained because the applicant would not agree to re-locate the proposed bedroom addition as a second story over the existing duplex footprint rather than upon existing open yard and potential parking space. Final BAR approval was granted on the condition that performance bonding for landscaping would be required.

Mandates and Service Levels:

Section 35-182.3.1 of Article II (the Coastal Zoning Ordinance) of Chapter 35 of the County Code provides that the decisions of the Planning Commission may be appealed to the Board of Supervisors.

Pursuant to Government Code Sections 65355 and 65090, a notice shall be published in at least one newspaper of general circulation.

Pursuant to Government Code Section 65091, mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least 10 days prior to the hearing.

Fiscal and Facilities Impacts:

As this is an applicant appeal to the Board, an appeal application flat fee of \$2,000 is required per the Planning & Development fee schedule (Resolution No. 04-060, adopted by the Board of Supervisors on March 15, 2004). Any costs borne by the department for processing this appeal over the amount of \$2,000 represent a net County cost. These funds are budgeted in the Permitting and Compliance program in the Development Review South Division on page D-294 of the adopted 04/05 fiscal year budget.

Special Instructions:

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development Hearing Support Section, Attention Cintia Mendoza.

Attachments:

- A: Findings for Approval
- B: Coastal Development Permit 03CDP-00000-00155
- C: Planning Commission Staff Report dated February 10, 2005.
- D: P&D Staff Memo to the Planning Commission dated March 25, 2005.
- E: County Counsel Memo dated March 17, 2005.
- F: Public Works Memo dated March 14, 2005.
- G: Vicinity Zoning Map.

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H: BAR Memos and Minutes

I: Approved Site Plan and Floor Plan for 03CDP-00000-00155

J: Appeal Request received April 6, 2005

K: Planning Commission Action Letter

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