



City of Larkspur

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June 21, 2017

Foreperson Hamilton-Roth
Marin County Grand Jury
3501 Civic Center Drive, Room #275
San Rafael, CA 94903

SUBJECT: Larkspur's Response to "Overcoming Barriers to Housing Affordability"

Dear Foreperson Hamilton-Roth:

At its regular meeting on June 21, 2017, the Larkspur City Council reviewed the report entitled "Overcoming Barriers to Housing Affordability." We thank the Civil Grand Jury for its service and its interest in creating better government for the people of Marin, and attempting to address the challenge of the high cost of housing in Marin County. The report requests that the Council respond to Recommendations R1, R2, R3 and R6 of the report. The City Council's responses are attached.

Should the members of the Grand Jury require additional information, please contact City Manager Dan Schwarz at 415-927-5110 or dschwarz@cityoflarkspur.org.

Sincerely,

Dan Schwarz FOR KEVIN HAROFF

Kevin Haroff
Mayor

Recommendation 1: Each planning department should begin regularly scheduled meetings at which developers can speak, early in the process with all relevant members of staff to discuss impacts of proposed development and potential solutions to problems.

This recommendation is consistent with best planning practices. Team meetings are helpful to the development process so that applicants can receive preliminary review of projects with *everyone in the same room*. For medium to large agencies that frequently receive development proposals, it is common to have regularly scheduled meetings where all pertinent departments are represented. As indicated in the report, these meetings can assist a developer in resolving design issues and improving community acceptance prior to making an application.

However, this specific recommendation fails to differentiate between agencies with an active development sector and jurisdictions with a limited population and available, developable land. The City of Larkspur is a largely built-out community with a population of approximately 12,000 persons, and, in a given year, receives less than a dozen "inquiries" for housing projects other than single family home remodels. The City operates efficiently, and within budget, with a small staff performing a variety of tasks and attending numerous regular meetings. The City must weigh the value of the recommended practice against the amount of staff time and resources it would take to implement. Committing representatives from all departments and outside service agency to a weekly or even monthly meeting would not be an efficient expenditure of time and taxpayer money, as most meetings would not be attended by developers. Rather than committing resources to a regularly scheduled meeting, the City of Larkspur facilitates responsive interdepartmental communication with potential applicants in several ways:

- "One-stop" counter availability. The Building Inspector and a planner are available at the public counter four days a week, from 9 am to 12 pm, Monday through Thursday. The Engineering Division of the Public Works Department also has a representative available on Monday and Wednesday mornings, so that all three disciplines are represented on these days. Conference rooms are generally available to allow for uninterrupted discussion.
- Planners as facilitators of interdepartmental review. Planners are available at the public counter from 9 am to 12 pm on Monday through Thursday and 1 pm to 5 pm on Monday, Wednesday, and Thursday. Planners are also available directly by phone and email. Planners typically serve as facilitators for "team" meetings to allow the applicants to collaborate with the various departments that are part of the development review process (typically building, engineering, and fire).
- Use of "on-call" consultants. Being a small agency, the City utilizes consultants for specialized matters such as building code, accessibility, and environmental review. These consultants are contracted for on-call support and can be utilized to assist in conducting preliminary review of project proposals in a timely manner. The Planning Division also maintains a list of "on-call" planning consultants that

can assist in managing significant development projects if the staff is overloaded with day-to-day projects.

- Pre-Application review. If applicants and/or developers have prepared some level of plans and documents, they can request a pre-application meeting to include review by the Planning, Building, and Engineering Divisions, as well as the Fire Department. This again assists in avoiding the costly errors or problematic issues at the outset of the application process. A written summary is provided to hold participants accountable for the feedback provided. It should be noted here, however, that the value of the feedback is only as good as the thoroughness of the information provided to staff. That is, where the submitted materials are vague and uninformative, the less definitive the response of staff.

Conclusion: Recommendation 1 will be implemented in part, in so much as the City will continue to assign interdepartmental teams to engage developers when warranted.

Recommendation 2: Each planning department should develop a proactive community outreach strategy for any project that might be considered potentially controversial (including going beyond legal noticing minimums and initiating outreach efforts as early as possible in the development cycle).

This recommendation is consistent with best planning practices. As every project is different, Larkspur does not employ a one-size-fits-all approach to outreach; the City employs the following procedures to facilitate community outreach ahead of public hearing review:

- Encourage public outreach ahead of public noticing. For nearly every project received at the Planning Division public counter, applicants are encouraged to reach out to their neighbors and their neighborhood association *before* public notice is issued. This recommendation is strongly encouraged for every type of project where a neighbor could be impacted. For larger projects, which may generate significant public participation, it is recommended that the applicants conduct outreach *prior* to submitting an application. This allows the developer to consider and implement reasonable plan modifications so that the neighborhood has been included in the project development. The City provides mailing list for neighborhoods and contact information for nearby homeowners' associations at no cost. To provide broader outreach to interested members of the public, as well as community interest groups, the City is instituting an email notification system that will push out public hearing notices by email for anyone interested in general planning and development matters. While there is no legal requirement to conduct preliminary outreach, most developers (particularly non-profit housing agencies) understand that gaining neighborhood support is crucial to minimize opposition and legal obstruction to a project.
- Study Session Review. The City has long had a process for conducting preliminary study sessions with the Planning Commission, which are particularly useful for assessing community issues that may arise in conjunction with a major project. Study sessions are an informal review process at which a potential applicant can present conceptual proposal for feedback from the Commission and the community at large. Study Sessions require a nominal fee and include notification via site postings and mailing to the surrounding neighborhood. To provide broader outreach to interested members of the public, as well as community interest groups, the City has an email notification system that pushes out advanced email notifications to anyone interested in general planning and development matters, including community associations and advocacy groups. This can be used to assure maximum participation for Study Session reviews.

Conclusion: The City of Larkspur will continue to both encourage and provide support for proactive community outreach for any housing project, particularly enhancing web-based outreach.

Recommendation 3: Each planning department should use succinct "plain-speak" to convey issues in their outreach.

This recommendation is consistent with best planning practices. Public noticing is a balance between providing thorough and legally adequate information within a very concise mailer format. The required content for public hearing notices for development projects are detailed in both State Planning and Zoning Law and the California Environmental Quality Act. The basic required content includes the project location, application number, hearing date, time, and location, staff contact information, along with ADA accommodations and other various legal disclaimers.

The Grand Jury's report provides examples of what the Grand Jury deems to be "good" public notice language that may not, in fact, sufficiently inform the public of the challenge of balancing readability with legally mandated language. The Grand Jury's example of a "good" public notice involves a project of limited legal complexity – a 711 square-foot addition of a single-family residence to a master plan for a three-lot hillside subdivision. Such a project has limited scope under the California Environmental Quality Act (CEQA), which allows for much simpler public notice language. It would be more informative to the public for the Grand Jury to examine the legal mandates governing public notices for multi-unit housing developments and the implications of those mandates for advancing the cause of housing affordability.

The Council agrees that *dense, narrative paragraphs* are not a desirable format for relating the pertinent information required within a public notice. Our public notice does not rely upon this type of approach. Rather, in our notice format, informational details and procedures are provided with clear headers and project descriptions are kept fairly general, relying more on bullet points to emphasize important aspects of a project.

Public agencies are required to provide public notice to property owners of property within a certain radius of the project site. The radius required by law for sufficient notice of a particular project is an arbitrary one established by the Legislature. The Grand Jury suggests that this radius should be increased, but offers no real guidance regarding a methodology for choosing the expanded radius. As a result, the Grand Jury's recommendation in this regard amounts to asking local councils and governing boards to adopt their own, arbitrary measures of sufficient noticing distance. Noticing requirements should be uniform in California, and the City Council believes this recommendation of the Grand Jury should be directed to Sacramento for consideration of a statewide change.

Conclusion: The City of Larkspur will continue its public noticing practices to ensure that necessary legal disclaimers and technical jargon are minimized, and information important to the recipient is emphasized.

Recommendation 6: Each jurisdiction should adopt procedures so that low-income housing projects are fast-tracked through the planning and permitting process.

Implementing programs H6.J.(a), H6, and H7.F of the Larkspur 2015-2023 Housing Element requires "fast track" or "priority" processing of all projects that include affordable housing. The City is made up of a small staff and all projects are managed efficiently and within time limits mandated by law. While the City cannot afford staff dedicated solely to the purpose of facilitating housing projects, the City accomplishes this goal largely through these practices (as discussed previously): 1) "one-stop" counter availability wherein the Building, Planning, and Engineering Divisions are all available at the public counter two days a week, from 9 am to 12 pm, Monday and Wednesday; 2) planners as facilitators of interdepartmental review, wherein housing projects are assigned the highest priority; and 3) use of "on-call" expert consultants who have experience and understanding of the local community.

One of the most expedient methods of fast-tracking a housing project is to make it a ministerial permit, as opposed to a discretionary permit requiring public review. While the City will continue to require discretionary review for major projects that affect the overall community, the fast-tracking for lower-cost housing occurs through ministerial permit approvals for new accessory (second) dwelling units (ADUs) and Junior Accessory Dwelling Units (JADUs). While the Grand Jury Report encourages ADUs and junior second units by reducing fees, the discussion is not in the context of permit process streamlining. Accessory dwelling units and junior second units have proven to be a good source of lower-cost housing, through design, not subsidy. The City of Larkspur has been approving second units through an administrative process since 2003, and adopted an ordinance for administrative approval of JADU's in 2016. In January 2017, State laws recognizing JADUs were adopted and the mandates for ADUs were significantly changed, resulting in a requirement for local jurisdictions to adopt and administer a permit process that is ministerial and subject to processing time limits. The City has been operating in compliance with the new ADU provisions set forth in the State law. As a result, we have already received two applications for ADUs, which is twice the number of ADU applications the City has previously processed in one calendar year.

Recommendations R2 and R6 of the Report concern a fundamental conflict in the development process. Good public engagement does not lend itself to streamlining process. As noted above, to ministerial review is ultimately the most effective streamlining tool for developing housing projects, as reported in the California Legislative Analyst's Report, *California's High Housing Cost; Causes and Consequences* (March 17, 2015) and reflected in the Governor's "By-Right" Housing Bill last year. The City of Larkspur prefers to err on the side of time and public engagement, and will continue to promote local control over state mandates that eschew the community's voice.

While the City has adopted policies and procedures to encourage the fast-tracking of lower-cost housing projects, the City rarely receives applications solely for low-income

or affordable housing. Most of our housing projects are market rate, with the required set-aside of affordable housing as a percentage of the overall project. In these cases, much of the success of the project depends upon the willingness of the developer to proactively engage the community and address significant issue up-front and minimize public controversy. The Grand Jury should recognize that the downsides of fast-tracking can be: a) corners may be cut and procedures be missed, which can make the project vulnerable to litigation; and b) there is often public criticism that the review process has been compromised, giving the impression that project action has been "rubber-stamped." Local agencies can most effectively fast-track housing projects by assuring a focused, expedient, and thorough review at staff level, and assisting the applicants as much as possible in identifying potential issues that provoke community opposition.

Conclusion: The City of Larkspur will continue to streamline staff review and response for lower-cost housing projects as much as feasibly possible to assure legal compliance and adequate community engagement.