

City of Albany
Planning and Zoning Commission
Staff Report

Meeting Date: October 14, 2008

Prepared by: _____

Agenda Item: 6b

Reviewed by: _____

Subject: 701-705 Hillside. Review of Project Implementation. Planning Application 05-025. Discussion of implementation of project originally approved in 2004 to construct two single-family homes.

**Applicant/
Owner:** Mark Frederick

Recommendation

Provide feedback to applicant and staff on issuance of certificate of occupancy for 705 Hillside.

Project Description and Previous Action

The project at 701-705 Hillside consists of the construction of two new single-family homes totaling approximately 5,290 square feet each. The project was originally approved by the Planning and Zoning Commission on January 27, 2004, and upheld by the City Council on appeal on April 6, 2004. The approval expired, and was re-approved by the Commission on April 12, 2005. Pursuant to the California Environmental Quality Act, a Mitigated Negative Declaration was circulated on January 6, 2004. Conditions of approval for the project are attached (Attachment 1).

The building permit for the two homes was issued in March 2006. Construction on 705 Hillside began late spring 2006. Before the start of the second home, staff organized a neighborhood meeting with the applicant in May 2007. Construction on the second home, at 701 Hillside began late summer 2007, and appears to be proceeding at a slow rate.

At the February 26, 2008 Commission meeting, several neighbors spoke in detail regarding concerns about project implementation. Status reports have been held on March 11, 2008, May 27, 2008, and July 8, 2008. Neighborhood concerns about the progress of the project, however, remain. See correspondence dated received October 9, 2008 (Attachment 2).

Identification of Key Issues

The construction of the home at 705 Hillside is essentially complete, and the applicant has requested a certificate of occupancy by the City Building Official (Community Development Director or designee). The standard process associated with the issuance of a certificate of occupancy involves at least four separate City inspections:

1. Fire Department inspection for fire sprinkler, fire alarm, and other similar requirements. In this case, no major issues are anticipated.

2. Public Works Department for street and sidewalk improvements and repairs. Since this project involves two homes, some street repairs will be deferred until the completion of the second home.
3. Planning Division for compliance with design review approval. The principal issues are detailed below. Recordation of easements, etc. can also be addressed at this stage.
4. Building Division for compliance with building code requirements. The final inspection generally involves a review of the functioning of the plumbing, electrical, and mechanical systems, installation of flooring and countertops in bathroom and kitchen areas, completion of the exterior envelope of the building, stairs/steps/handrails, roof drainage, and general clean up of the site. Staff also reviews various special inspection reports and engineering certifications. It should be noted that in some cases, finish work that does not require inspections such as painting, flooring, and installation of certain fixtures continues inside the building after issuance of the certificate of occupancy.

Of the four elements of the final inspection, the Planning Division review will be most critical. On September 18, 2008, staff conducted an inspection of the project for compliance with conditions of approval. Two notable items were observed:

1. The approved plans show a guardrail rather than stucco wall on intermediate level
2. The landscape installation does not match the approved plans.

Staff has forwarded the open space easement to the applicant for signature and recordation. The easement will be recorded prior to issuance of the certificate of occupancy.

Variations from the approved plans can be dealt with in three ways:

1. Withhold the certificate of occupancy and require work be modified to match the approved plans;
2. Accept variations from the approved plans as minor modifications subject to staff approval, pursuant to the procedures in Planning and Zoning Code Section 20.100.010.J. Staff could accept the changes as proposed (and constructed) or require modifications.
3. Require that the applicant submit a formal application to amend the conditions of approval, and hold a formal public hearing. The Commission could accept the changes as proposed (and constructed) or require modifications.

Conclusion

In earlier reports to the Commission, staff identified previously constructed roof enclosure as the only design issue that rises to the level of seriousness that justifies withholding a certificate of occupancy. The roof enclosure has been removed.

While minor variations from approved plans are a normal part of the construction process, in this particular case, the variations from the approved plans are more significant than we would normally expect. The remaining variations, however, appear to be the result of lack of attention to the approved plans rather than a substantial change from the policy intent of the Commission when the project was approved.

For example, with respect to the landscape plan, we can expect that over the course of the life of the residence, property owners make a series of major changes to landscape schemes without any input from the City. With respect to the stucco wall versus open guardrail, the stucco wall helps shield furniture and other clutter that can accumulate on decks, and overall in staff's view does not substantially affect the appearance or massing of the building. Therefore, staff is inclined to consider the deviations from plans as minor variations, and once documentation is in place, approve the planning portion of the certificate of occupancy.

The implementation of this project has been exceptionally challenging for the neighborhood, the applicant and the City. Staff continues to be of the view that professional mediation services may be appropriate to assist with communications between the City, the property owner, the contractor, and willing neighbors. Commission feedback on this suggestion would be appreciated.

Frequency of Commission Review

Initial Commission direction was to agendize project updates every 60 days. Normally, substantial construction progress would be made during the course of 60 days. As mentioned, however, it is apparent that construction of 705 Hillside is proceeding slowly. As an alternative, staff would recommend that the next Commission review be scheduled the earlier of 120 days, or upon initiation of framing of the second home.