

1 In addition to the Hillside Development request, the applicants are also requesting a variance. A variance  
2 is due to the existing location of the residence they are proposing to create interior space underneath the  
3 existing roofline, which happens to sit within the front setback. The front setback for this property is a  
4 distance of 25 feet; a portion of residence is 25 and 8 feet into that setback. Based on applicant's  
5 proposal, staff has not received any feed back from the City Engineer and the fire district is simply looking  
6 for an upgrade to an existing fire hydrant. Staff is in support of the application and the request of  
7 variance. Given the fact that the existing roofline will not be altered or expanded, there will not be  
8 outward visual in appearance from the requested variance which staff will support. Although it is new  
9 square footage, it will not change what the neighbors see on the additional lot. The applicants are not  
10 proposing to remove any trees. There are a number of oak trees behind the residence of the hill which  
11 will not be affected by the application and there are a number of small ornamental trees around the house  
12 that are proposed for retention with the project as such. Staff did not refer this to the landscape  
13 consultant given that they were not proposing any significant removal of the existing landscaping.

14 Peter Golze, architect for the project said it's largely an infill project of a single story structure, well  
15 screened from the street and from the neighbor and is far below the ridgeline; no grading is necessary; no  
16 trees proposed for removal and rather than just bulldozing the house and proposing another two story  
17 mansion – the project is a sensitive remodel of an interesting early 60's contemporary that fits well with  
18 the neighborhood. The proposal is in compliance of all the principle guidelines and revelations and  
19 findings of the variance included in design agreement.

20 Roger Rector is the neighbor to the house that is proposed for reconstruction and he is very supportive of  
21 the plan and wanted to register that for the record.

22 **Commissioner Ateljevich moved and Commissioner Harris seconded to adopt Resolution 2007-03,**  
23 **approving HDP8-06 subject to conditions.**

24 **AYES: Ateljevich, Chastain, Harris, Humann, Lovitt, and Mitchell**  
25 **NOES: None**  
26 **ABSENT: None**  
27 **ABSTAIN: Holt**  
28

29 **B. HDP97-06 ERIC STRAND (APPLICANT & OWNER), LR-10 ZONING:** Request for: (1)  
30 Hillside Development Permit pursuant to Section 6-2015 of the Lafayette Municipal Code  
31 (LMC), (2) Design Review approval pursuant to Section 6-1903 LMC, and (3) Grading permit  
32 pursuant to Chapter 3-7 LMC to construct a new, approximately ~~3,500~~ 4,000 sq.ft. one-story  
33 single-family residence with basement with a maximum ridge height of approximately 29-ft.  
34 above existing grade on a 5.3-acre vacant parcel in the Hillside Overlay District on Burton  
35 Ridge at 10 Vista del Valle off Michael Lane. APN 238-080-035 (Reference previously  
36 withdrawn application HDP83-05).

37 **Recommendation:** Consider revised plans showing ~2,500 sq.ft. design alternative to the  
38 ~4,000 sq.ft. proposed single-family residence, take testimony from the applicant and public  
39 and continue the matter to February 15, 2007 to allow the applicant to revise the project  
40 design.

41 **Project Planner:** Greg Wolff, Tel (925) 299-3204, [gwolff@lovelafayette.org](mailto:gwolff@lovelafayette.org)  
42 (Estimated time: 45 min\*)

43 *Commissioner Humann recused himself from the item as he is leaving for the evening.*

44 Project Planner Greg Wolff reported the Planning Commission has considered the matter twice before. In  
45 May 2005, the Planning Commission dictated the house would be 2,000 square feet with an additional  
46 500 square feet garage. Only if the applicant could demonstrate that a larger home would have no  
47 additional impact would a larger home be considered.

1 The plans brought to the Commission in October were not for a 2,500 square foot design but for a 4,000  
2 square foot design. The Planning Commission found the application lacked specific information that  
3 would be necessary for them to make an informed evaluation on the project. The previous testimony  
4 from the project architect was that the design in October contained an adequate and approvable fire  
5 district turnaround. As is turns out, that turnaround was not adequate. Formerly, the turnaround utilized  
6 part of the private road as part of the hammerhead turnaround. It is now fully incorporated on site. The  
7 fire district has reviewed it and indicated it meets their standards. The plan, however, establishes a flat  
8 turnaround 60-ft. deep, perpendicular to the contours, resulting in inboard and outboard retaining walls  
9 with a combined height of 19-ft. The Design Review Commission did not have the benefit of seeing that  
10 or other components of the revised design.

11 With respect to water supply, previous testimony was that East Bay MUD would serve this property. As it  
12 currently stands, it is not the case. The applicant has submitted an application to LAFCo to annex the  
13 property into East Bay MUD's service area. As an alternative, the applicant has submitted a letter from  
14 the uphill neighbor, Mr. Lindberg, which indicates he would enter into an agreement to provide the  
15 property with water service since there is more than adequate supply on hand on his property.

16 The plans have been revised to show a future trail easement along the ridge to complete the ridge trail.  
17 Additional hydrological information has been submitted but not yet reviewed by the City Engineer.

18 Commissioner Chastain said just so the record is clear, the Design Review Commission has not seen the  
19 fire turnaround issue.

20 Mr. Wolff said that was correct.

21 Commissioner Chastain also wanted to confirm the alternative for a smaller home, with a possibility for a  
22 larger home on the site which was never presented to the Design Review Commission.

23 Mr. Wolff said that was correct. The Design Review Commission considered the 4,000 square foot  
24 design that was submitted. Mr. Wolff advised the Commission that the current plans show a 2,500  
25 square foot design that looks in elevation very much like the 3,900 square foot design, in large part  
26 because the square footage was eliminated from the basement level, and not the upper level where the  
27 reduction would have the greatest benefit in reducing the visual impact.

28 Commissioner Chastain asked if the site had sufficient water supply.

29 Mr. Wolff said it is his understanding that it does, either through ultimate EBMUD service or provided by  
30 the Lindberg's.

31 Eric Strand, applicant and owner of the property, said he loves Lafayette and bought this land thinking he  
32 would build his dream house. He started this process in July 2004. He said he was willing to build  
33 anything the city wanted, wherever it wanted it. Siting was not an issue to him. He is willing to comply  
34 with anything the City wants, except for the size. It would not be feasible for him to build a 2,000 square  
35 foot house on a \$1.2 million lot.

36 Tim Ward, architect for the project, indicated there were four sites considered for the project; two were  
37 above the ridgeline zone and two down near the bottom. During design review, the site that they had was  
38 tweaked and the house was turned and moved up toward the tree. They were hopeful the fire  
39 department would accept the turnaround that was out by the existing road; they did not. So this particular  
40 turnaround is the smallest one that can get.

41 He understands that Mr. Wolff is critical that they could have designed the 2,500 square foot house  
42 differently. Mr. Ward said it is a struggle to come up with a design to try to find the smallest profile  
43 possible on the downhill side. It is a brutal site and a very difficult lot to design for.

1 Mr. Ward said under Required Findings §6-2067, General findings required for a hillside development  
2 permit – that would be difficult to make but he does have one they could make there. In §6-2070,  
3 Findings required for approval of development on existing lots of record in hillside overlay district – it is  
4 very difficult except for Item C; as for Item D, he is not sure he would minimize the loss of privacy to  
5 surround residences since they are not near anybody. Under §6-2069, Findings required for grant of  
6 exceptions permitting development with class II or II ridgeline setback – Item B - what is the economic  
7 viability use of the property, where is that line. From his position, they are saying visually, it really isn't an  
8 issue at 2,500 square feet or 3,900 square feet. Is 2,500 an arbitrary number or is it a number that some  
9 lawyer has identified as what the law looks at. If it's from visibility, they feel they can manage the project  
10 and the closeness of these two 2,500 or 3,900 square foot homes are so close visually, that they can be  
11 dealt with.

12 Mr. Wolff suggested better landscaping; there may be architectural improvements that can be made. If  
13 the commission moves to the direction of saying, maybe it's not 2,500 but it's something else, and we  
14 need to see better concealment, better planting, vertical landscaping, all the things that can be done to  
15 make this project and they are certainly willing to do that.

16 Commissioner Ateljevich asked Mr. Ward if they were willing to move it to location over by the planting.

17 Mr. Ward said absolutely if it's down lower. As the slope gets steeper and that 60 foot turnaround, all of  
18 sudden, instead of 11 ½ feet – it's 14 feet or something. Maybe it can be split so they can go 7 and 7 or  
19 something like that. It exacerbates that particular element. That was in the setback. They would be into  
20 front yard setback.

21 Commissioner Ateljevich pointed out that the Commission indicated it could support a variance to  
22 encroach into the setback if it served to lower the house and reduce its off site visibility.

23 Mr. Ward said it shows up as a variance but will support that position. They were told where to put it and  
24 he was told by staff that he could move it further down. It was not in the meeting they were told that. He  
25 got that from staff after the meeting, that they could move it further into the setback.

26 Commissioner Ateljevich indicated that was said at the Planning Commission meeting.

27 Commissioner Chastain said he would prefer not to have off-hand remarks with regards to the size  
28 addressed to staff as that issue lies with the Planning Commission. They went through a very deliberate  
29 process; they arrived at a set of conclusions and the size was part of it. The 2,000 square foot was a  
30 starting point, in a sense the only way in dealing with a very problematic site in good faith, was to take  
31 that number and work with it. He does not know what to do with this and that is part of his problem. It is  
32 a design issue, but it was not approached that way in the process of getting that design approval. That to  
33 him is a big problem.

34 Commissioner Harris said that was his recollection of what was done. They definitely selected a site  
35 further down the hill because that would reduce visibility, not withstanding the setback. The applicant was  
36 directed to start with something small and come back and show us the Commission that you can build  
37 something bigger and it won't look bigger than the smaller size.

38 Cliff Tong, on behalf of burtonvalley.com said they have a long and glorious history with this application.  
39 It has been through quite a lot of public scrutiny and hearings and he certainly echoes the sentiments of  
40 Commissioner Chastain regarding frustration about the process. The 2,000 square foot was guidance  
41 baseline, it was not a top end limitation. He is clear on that; he believes everyone is clear on that. The  
42 nature of the process was show us what that looks like first and then you incrementally go beyond that if  
43 you can prove you've done your best to make a design in the 2,000 square foot range that made sense;  
44 they worked for the particular location. Mr. Tong finds all of the design gymnastics going on here quite  
45 disturbing and encouraged the Commission to follow the process that it set out initially.

1 Jeff Peacock with the Parks, Trails, Recreation Commission, wanted to draw attention to the letter from  
2 the East Bay Regional Park District and one from the Parks, Trails, and Recreation Commission. The two  
3 agencies are both interested in preserving the trail across the top of Burton Ridge as the easement  
4 shown at A1.1. It meets their needs as a proposed area for the trail easement. He wanted to point out  
5 that trail has been on the maps and part of the master plan for 30+ years. It's a very important link to the  
6 trail system, as it stretches from south of Lafayette, up through and into Briones and beyond that and  
7 branch over to Mt. Diablo. It's a huge trail system and really the only link in question that is still not nailed  
8 down. So it's important that they do not lose this link that would break up a marvelous regional trail.

9 Eric Strand said he understood the recommendation to place the house in the swale was done by staff.  
10 He didn't like where it was placed since it was a very expensive place to build on and a lot more visible.  
11 He will take full blame for not designing a 2,000 square foot house. But he has told staff and the  
12 commission from the start if he can only build a 2,000 square foot house, he'll go straight to court.

13 Chair Holt pointed out the commission has ordinances to adhere to and the economics of the project is  
14 not a consideration.

15 Mr. Strand reiterated he did not place the house there and did not ask to locate the house where it is.

16 Vice Chair Mitchell thought the applicant would prefer a house more in the swale area and asked Mr.  
17 Ward if there is a solution to the issue with a redesign.

18 Mr. Ward said they wanted it in the setback. They started out with a house in the swale because they felt  
19 you couldn't see it from the south and it had less exposure.

20 Vice Chair Mitchell felt it was unfortunate Mr. Ward was not at the meeting where it was made quite clear  
21 visibility was more important than 50 foot setbacks and that's the reason why the site was moved.

22 Commissioner Harris felt a good design can be done to do that, which could end up with a bigger house.

23 Mr. Strand said the only way he would do that is if everyone made sure the 2,000 square foot house is off  
24 the table. If they don't, he would appreciate it if they would just deny him. He has money saved for an  
25 attorney if that's where it has to go. The only way he would do that if the Planning Commission said the  
26 2,000 square foot is off the table. Otherwise, he would ask for denial.

27 Chair Holt closed the public hearing.

28 Mr. Wolff asked the Commission to grant him a moment to pull the nine findings that the Planning  
29 Commission adopted in May.

30 Chair Holt asked where Mr. Wolff where they should go with this.

31 Mr. Wolff said the applicant has for this meeting, but has not previously, moved in the direction  
32 established by the Commission to start a 2,500 square foot design and then illustrate a larger design that  
33 would not have additional impacts. Mr. Ward correctly articulated that staff critiqued the illustrations that  
34 were presented and found some options that were not incorporated. The photo simulations that were  
35 submitted this evening illustrate the square footage that was taken away from the 4,000 square foot  
36 design to yield the 2,500 was taken out from the lower story and thus really had no impact on reducing  
37 the visibility of it. Something as simple as that could yield significant reduction in visibility. Staff would  
38 concur that the applicant to date has not gone through the process outlined and the Commission could  
39 afford him the opportunity to do that. That would be staff's recommendation is to go through that process,  
40 as stipulated in 2005.

41 Chair Holt asked if the applicant should be given another opportunity to see if he can satisfy what he  
42 hasn't satisfied.

1 Mr. Wolff said that was a question the Commission can pose to the applicant.

2 Commissioner Ateljevich said the site is one of the most important things. If that site gets lower, she  
3 would be willing to offer the opportunity for a redesign so it wouldn't hung up on a hundred or a couple of  
4 hundred feet. She asked if the applicant can have sketches made of different options.

5 Commissioner Chastain said he was not going to say this is the only way to solve the problem. He is  
6 quite willing to look at how to continue with the applicant and his house and the site to find a suitable  
7 successful way to resolving the issue. But in a larger framework, they have struggled with the issue of  
8 size a lot. Being an architect, he does understand how important the design is relative to the perception  
9 of scale. He is quite open to the fact that just size in itself is not actually going to solve the problem. He  
10 would say that the previous process that was referred to also did was what they are saying tonight. They  
11 took a design and then they nipped and tucked it and told the Commission "here is what the smaller  
12 version would look like". He is willing to say the process has failed both times. But he won't think that's  
13 what they asked them to do. The Commission did not ask the applicant to design a large house and then  
14 whittle small bits off to demonstrate that a smaller house can look just as big. They asked for the  
15 opposite - a different understanding which is almost to teach them what is on the site in the way you build  
16 on it that makes it possible for more square footage there; starting off with a small house and then getting  
17 bigger through good design. That's a different question than how does that house look like if I nipped and  
18 tucked 10% off. That's a different question. It may not be possible and it may not be reasonable, but he  
19 does not think those are the same and that's what would make him feel better about the difficult site and  
20 that is not what they are seeing tonight.

21 Chair Holt pointed out it is a legal lot on record and the applicant has a right to build a house. And it's not  
22 up to them to approve a house that guarantees the builder a profit; that's not their responsibility.

23 Commissioner Harris asked Mr. Wolff what did happen from staff's perspective on the change in site  
24 compared to what they approved and is now shown.

25 Mr. Wolff said he had the staff report from May 19, 2005, which illustrated all of the findings that they  
26 made. Mr. Wolff read from the staff report. One was that the subject property is an existing lot on record  
27 but that there is no good building site on the property in terms of the City's Hillside development  
28 regulation; therefore, the goal of the Planning Commission is to determine that the site that would have  
29 the least impact and would best meet with the applicable goals of the general plan and the City's hillside  
30 development regulations.

31 Sites 1 and 2 were not staked in the location shown on the submitted plans, rather than the stake to the  
32 south of the dead oak tree that were staked to the north of the dead oak tree where the applicant does  
33 wish to build. The site as staked were identified as staff as at that point as Site 1S and 2S. Site 1S is  
34 entirely within the class line ridge setback and that is afforded the highest level of scrutiny and protection  
35 and via the most stringent findings in the largest setback. Moving on 5; a modified site 2S would be  
36 situated to the side of the natural swale to the northwest of the property and would allow the surrounding  
37 lay and form to be mitigated offsite visibility of any structure; a modified lower site 2S would allow for  
38 development that would best met the purpose and to the hillside regulations.

39 That's the illustration that was prepared by Chair Ateljevich at the time which was provided to the  
40 applicant at the time, which is up on the board and is in the packet, and which was in previous staff  
41 reports and it shows some encroachment into the setback, which is addressed further. Item 6 was that  
42 the foremost goal of the Hillside Development permit process and design review goal is mitigating the  
43 impacts of the development foremost being offsite visibility and to that end, the Planning Commission  
44 provides the following direction. The development shall not encourage up to 400 foot, Class 1 ridgeline  
45 setback, which this does not. Recognizing that there's a relationship between house size and the impacts  
46 it creates and that the subject parcel is very heavily constrained; the house shall be no larger than 2,000  
47 square feet, with an additional two car garage and an additional 500 square feet, unless the applicant can  
48 demonstrate to the satisfaction of the Planning Commission the larger home would add no additional  
49 impacts.

1 The Planning Commission would be supportive of a variance permitting the development to encroach into  
2 the required 50 foot setback to the west if it serves to lower the house and reduce it's offset visual  
3 impacts. The Commission recognizes that no future development will occur between the Strand house  
4 and the church below which might be affected by such a reduced setback. The Planning Commission  
5 would be supportive of a variance to allow development on a slope greater than 30% if it serves to reduce  
6 offsite visual impacts. The development should be appropriately dug into the hill to lower the height and  
7 reduce offsite visual impacts. The applicant shall strive to design the project entirely beneath the  
8 horizontal plain, expanding northward from the knoll, providing access to the fire road, providing access to  
9 the site.

10 Commissioner Ateljevich indicated that would mean below the elevation.

11 Mr. Wolff said this would mitigate offsite visibility by using the existing topography of the knoll and the  
12 hillside to the north to screen the development. The development should present as narrow a profile as  
13 possible to the nearby downhill to minimize offsite visual impacts.

14 Planning and Building Services Manager Niroop Srivatsa said staff has moved away from the position of  
15 denial and is suggesting the applicant be given an opportunity to work with the Commission.

16 **Commissioner Harris moved and Commissioner Lovitt seconded to continue the item to the**  
17 **regularly scheduled meeting of March 1, 2007 for a redesign to be at the site previously identified**  
18 **by the Commission, with a goal of the redesign to demonstrate a reasonable size house with a**  
19 **minimum off site visibility and given fresh reconsideration.**

- 20 **AYES: Ateljevich, Harris, Holt, Lovitt, and Mitchell**
- 21 **NOES: Chastain**
- 22 **ABSENT: Humann**
- 23 **ABSTAIN: None**

24 **8. OTHER BUSINESS**

- 25 **A. APPOINTMENT TO THE DOWNTOWN STRATEGIC PLAN CONSULTANT SELECTION**
- 26 **PANEL**
- 27 **Recommendation:** Nominate and vote on a Planning Commission member to serve on the
- 28 **Downtown Strategic Plan Consultant Selection Panel.**
- 29 **Staff:** Niroop K. Srivatsa, Tel. (925) 299-3206, [nsrivatsa@lovelafayette.org](mailto:nsrivatsa@lovelafayette.org)
- 30 **(Estimated time: 5 min\*)**

31 **Chair Holt moved and Commissioner Ateljevich seconded to appoint Commissioner Chastain to**  
32 **the Downtown Strategic Plan Consultant Selection Panel.**

- 33 **AYES: Ateljevich, Chastain, Harris, Holt, Lovitt, and Mitchell**
- 34 **NOES: None**
- 35 **ABSENT: None**
- 36 **ABSTAIN: None**