



March 10, 2015

Zarina Kiziloglu
5196 Hummingbird Road
Pleasanton, CA 94566

Subject: P15-0037, Additions, New Roof, and Windows
Effective Date: March 26, 2015

Dear Ms. Kiziloglu:

At its meeting of March 10, 2015, the Zoning Administrator approved an application for Administrative Design Review (P15-0037) to: **(1) construct an approximately 297-square-foot single-story addition to the rear; (2) construct an open-sided second-floor balcony above the single-story addition to the rear; (3) construct an approximately 558-square-foot second-floor addition on the east side; (4) install a new roof with five dormers, raising the roofline above the porch from approximately nine feet to ten feet; (5) install eight new vinyl windows and two new doors on the second floor; and (6) replace and/or reconfigure all existing windows with new vinyl windows at the existing residence located at 5196 Hummingbird Road.** Your proposed project meets all of the necessary requirements as outlined in the Pleasanton Zoning Ordinance. The project is, therefore, approved with the following conditions:

1. The additions shall conform substantially to the approved elevations, site plans, and other materials, Exhibit B, marked "Received January 26, 2015," on file at the Planning Division. Minor changes to the plans may be allowed subject to the approval of the Zoning Administrator if found to be in substantial conformance to the approved exhibits.
2. The colors and materials of the additions shall match those of the existing structure.
3. All demolition and construction activities, inspections, plan checking, material delivery, staff assignment, or coordination, etc., shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Saturday. No construction shall be allowed on State or Federal Holidays or Sundays. The Director of Community Development may allow earlier "start-times" or later "stop-times" for specific construction activities (e.g., concrete pouring), if it can be demonstrated to the satisfaction of the Director of Community Development that the construction noise and construction traffic noise will not affect nearby residents or businesses. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices. Prior to construction, the applicant shall post on the site the allowable hours of construction activity.

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning	Building & Safety	Engineering	Traffic	Inspection
200 Old Bernal Ave. (925) 931-5600 Fax: 931-5483	200 Old Bernal Ave. (925) 931-5300 Fax: 931-5478	200 Old Bernal Ave. (925) 931-5650 Fax: 931-5479	200 Old Bernal Ave. (925) 931-5650 Fax: 931-5479	157 Main Street (925) 931-5680 Fax: 931-5484

4. All appropriate City permits shall be obtained prior to the construction of the additions.
5. All conditions of approval for this case shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. At all times, these conditions of approval shall be on all grading and construction plans kept on the project site.
6. A restrictive covenant shall be recorded against the lot with the Alameda County Recorder's Office prior to issuance of a Building Permit. The restrictive covenant shall be subject to the review and approval by the City Attorney prior to recordation. The purpose of this restrictive covenant is to provide a vegetative barrier that will restrict views from the new balcony and addition into the back yard of the residence located at 5204 Hummingbird Road. Accordingly, the restrictive covenant shall contain the following language:
 - a. The existing Mulberry tree along the western property line of 5196 Hummingbird Road shall be retained for the purpose of providing screening from the proposed addition and balcony. If the tree dies, Owners (or subsequent owners of the Property) shall promptly replace the tree with a similar species which shall be at least 24-inch box size.
 - b. Four new Thuja Emerald Green trees, minimum 24-inch box size (anticipated to grow to a maximum height of 40 to 50 feet), shall be planted in the location specified and retained for the purpose of providing screening from the proposed addition and balcony. If the tree(s) die(s), Owners (or subsequent owners of the Property) shall promptly replace the tree with a similar species, which shall be at least 24-inch box size.
 - c. The mulberry tree referenced in item a above and the new tree referenced in item b above shall be located as shown in the drawings attached as Exhibit A which is incorporated herein.
7. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City, its City Council, its officers, boards, commissions, employees, and agents from and against any claim (including claims for attorney fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorney fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

You may apply for a building permit after completion of the Administrative Design Review procedure's appeal period or, if you wish to apply for a building permit before the end of the appeal period, upon submittal of a signed Waiver Form to the Planning Division. The waiver acknowledges that plan check fees may be forfeited in the event that the approval is overturned or the design is significantly changed as a result of an appeal. In no case will a building permit be issued before the end of the appeal period.

Zarina Kiziloglu, P15-0037
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At the time of building permit submittal, you must:

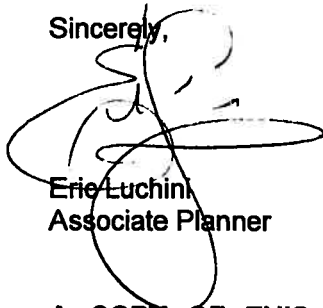
- a. submit a completed and signed Building Permit Questionnaire (attached) to the **PLANNING DIVISION**; and
- b. present a copy of this letter to the Building Division along with required plans.

If you have any questions about building permit fees or the building permit process, please contact the Building and Safety Division at (925) 931-5300.

Approval of the Administrative Design Review will become effective on **March 26, 2015** (Pleasanton Municipal Code Chapter 18.144), unless appealed prior to that time. Administrative Design Review approval shall lapse and become void one year following the effective date of project approval, unless prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion or an extension has been approved by the City.

If you have any questions, please feel free to give me a call at (925) 931-5612.

Sincerely,



Eric Luchini
Associate Planner

A COPY OF THIS LETTER AND A COMPLETED BUILDING PERMIT QUESTIONNAIRE (ATTACHED) MUST BE PRESENTED TO THE BUILDING AND SAFETY DIVISION WHEN APPLYING FOR BUILDING PERMITS. THE QUESTIONNAIRE MUST THEN BE SUBMITTED TO THE PLANNING DIVISION.

EFFECTIVE DATE: March 26, 2015

BUILDING PERMIT QUESTIONNAIRE

This questionnaire is being sent to you to be completed and returned to the **Planning Division** when you file for a building permit for your recently approved project. Its purpose is to ensure that your plans are checked in a timely manner and that the project is built according to the approved plans.

We appreciate your cooperation. If you have any questions, please call the Planning Division.

1. Applicant's Name and Address:

Zarina Kiziloglu
5196 Hummingbird Road, Pleasanton, CA 94566

2. Project Address/Location:

5196 Hummingbird Road, Pleasanton, CA 94566

3. Description of project for which a permit is being requested:

To: (1) construct an approximately 297-square-foot single-story addition to the rear; (2) construct an open-sided second-floor balcony above the single-story addition to the rear; (3) construct an approximately 558-square-foot second-floor addition on the east side; (4) install a new roof with five dormers, raising the roofline above the porch from approximately nine feet to ten feet; (5) install eight new vinyl windows and two new doors on the second floor; and (6) replace and/or reconfigure all existing windows with new vinyl windows at the existing residence located at 5196 Hummingbird Road.

4. The building project for which this permit is being requested has been approved by the:

Planning Division Planning Commission
 City Council

5. Planning Division Project Number: P15-0037

6. Do you certify that the plans being submitted for issuance of building permits conform in every respect to the approved plans and to all conditions of approval required by the above bodies?

Yes No

7. If the answer to Question No. 6 is "No", please list every item on the submitted building permit plans which differs from the approved plans or conditions of approval. Use the reverse side or attach additional sheets if necessary. All changes to the approved plans should be clouded with delta numbers (Δ).

I hereby attest that the above is true and correct. I understand that failure to correctly answer these questions may result in a delay of issuance of building permits and that if changes are discovered after the permit is issued, I am responsible for revising the project to conform to the plans approved by the City boards and/or commissions.

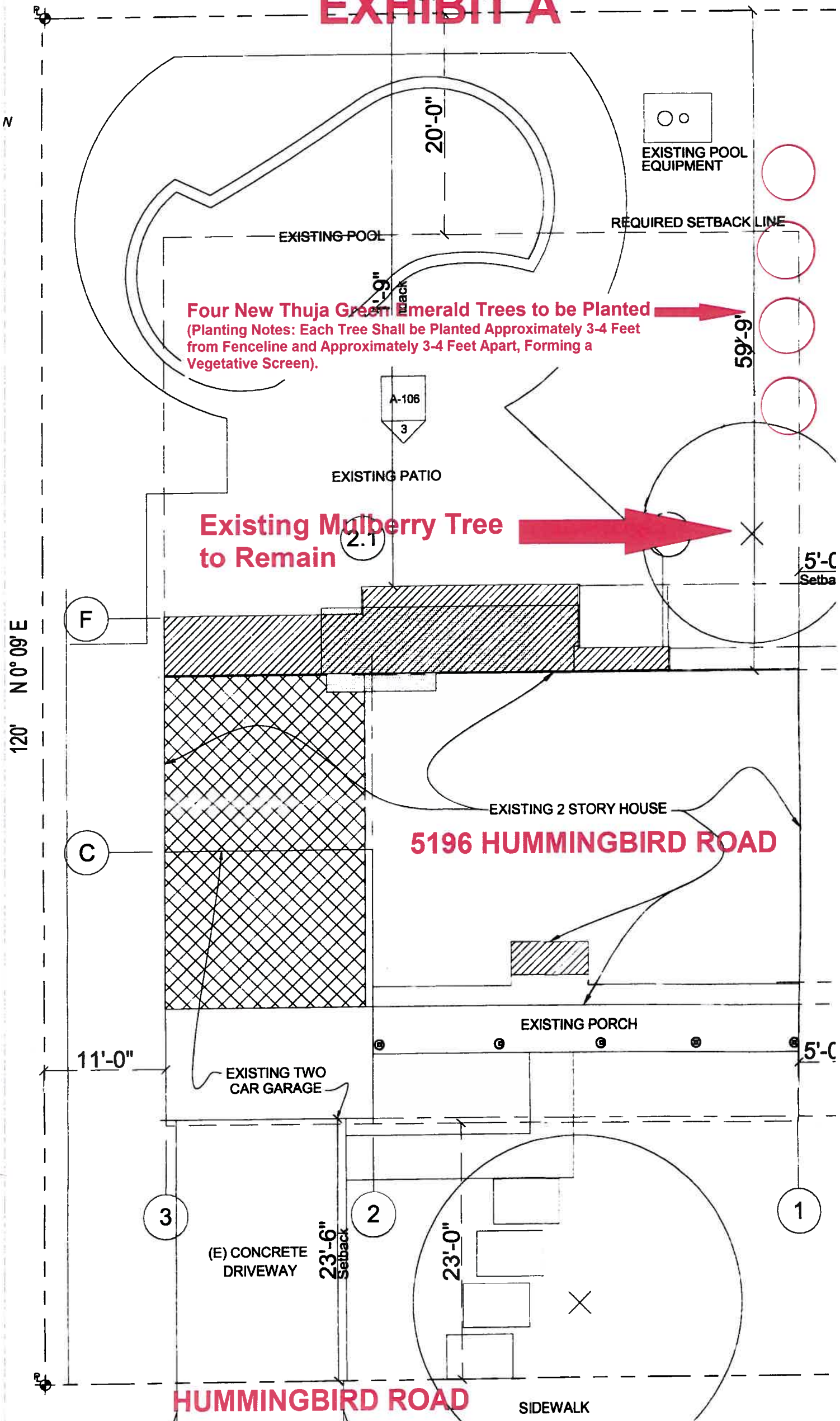
Date

Signature and Title

Phone Number

EXHIBIT A

737 N 89°51'W



Four New Thuja Green Emerald Trees to be Planted
(Planting Notes: Each Tree Shall be Planted Approximately 3-4 Feet from Fenceline and Approximately 3-4 Feet Apart, Forming a Vegetative Screen).

Existing Mulberry Tree to Remain

5196 HUMMINGBIRD ROAD

HUMMINGBIRD ROAD

120' N 0° 09' E

N

EXISTING PATIO

EXISTING POOL

EXISTING POOL EQUIPMENT

REQUIRED SETBACK LINE

A-106
3

F

C

11'-0"

EXISTING TWO CAR GARAGE

3

(E) CONCRETE DRIVEWAY

23'-6"
Setback

2

23'-0"

1

EXISTING PORCH

EXISTING 2 STORY HOUSE

5'-0"
Setba

5'-0"

SIDEWALK

Eric Luchini

From: Jamison & Betsy Cummings
Sent: Tuesday, February 03, 2015 12:05 AM
To: Eric Luchini
Subject: Zarina Kiziloglu (P15-0037)

Dear Eric Luchini,

We received a planning notice for the property of Zarina Kiziloglu at the address of 5196 Hummingbird Road. We have issues with the property as we live next door. Their plans seem like they will reduce the privacy in our house and allow them to look right into our bedroom. As well as look into our backyard when we are at our pool.

While we would support the expansion of their square footage, we do not want it to alter our privacy.

We would like to review the plans for this property and see if their designs will allow us to still feel comfortable in our own home.

You can call me at _____ so we may come view the plans.

Our address is _____

Very best regards,

Jamison Cummings

Click [here](#) to report this email as spam.

From: [Jamison & Betsy Cummings](#)
To: [Eric Luchini](#); [Adam Weinstein](#)
Subject: Re: Zoning Administrator Hearing - 5196 Hummingbird Road, Pleasanton
Date: Monday, March 16, 2015 10:44:29 PM
Attachments: [image001.png](#)

Eric,

I feel like this response is inconsistent with the discussion we had at the hearing. The language of your reply seems like I am agreeing to something at our last meeting and that is quite the contrary. I said I would only consider this after reviewing an example of the covenant and discussing it with my wife. The intent of your email closes the hearing and requires me to file a fee to continue this, even though I did not agree?

Let me first state that I felt like the tone of both you and Adam was more supportive of Zarina's interests and less supportive of the privacy concerns my wife and I have. She has been very emotional and distressed about this and all of the language in the hearing felt like an attempt to assuage me vs. having and empathy for my concerns.

Second, your email only speaks to the privacy of my back yard when in fact, it is the privacy of my BEDROOM that is of primary concern. This is not addressed in the email. I drew a diagram that I felt clearly outlined this, yet I see no mention of this. Your planners cannot truly tell me my privacy is assured based on the placement of one tree. To paraphrase my wife, she is using terms like "feeling like a prisoner in her own home" and other language at the thought of this balcony. This situation is causing distress to my wife and thereby my family life.

Third, Adam spoke to the planting of multiple Italian Cypress trees, not a Camphor tree. A Camphor tree sheds berries that extract a toxic oil, attracts large flies and wasps, and also shed. This is not conducive to a family that spends many days of summer by the pool. We bought this house for the pool and must deal with several trees that shed throughout the year. We also abate wasps on our own property as it is. This camphor tree will increase this blight. The toxic oil that the berries extract have a risk of allergic reaction and berries are poisonous if ingested. My wife suffers from multiple allergies and she is allergic to this family of trees. After reading other invasive qualities about roots, berries and the toxic oils of camphor I have determined it is a horrible choice for a tree if a tree was even an option, which it is not.

Fourth, using the Mulberry tree as a definition of a tree that blocks privacy as a reason to grant Zarina the permit is unacceptable. The mulberry is dormant in the winter and provides not privacy, also we are considering removing the small bay tree because it drops hard little acorns that hurt bare feet around the pool. This would increase our privacy concerns.

Fifth, the conditions of the covenant to plant a 24" box tree. This means it will take years to grow to an acceptable size because a box size does not specify the height when planted.

Sixth, I want to re-emphasize the importance of how my neighbors do not support this as well. My quick survey of neighbors in my petition seems to have not mattered in the decision. Keep in mind, I got these signatures in 15 minutes at 9 pm at night. I am intent to canvas the neighborhood for my support of this, as well as Mayor Jerry Thorn and his wife who live 4 doors down from me. I will gladly bring a whole group of people to a city council meeting to make my point. I would be extremely displeased if I had to do this, but we are a tight knit

group of people on the block and they would come if I requested.

I want to make it clear, I am removing all consideration of accepting a balcony under any terms. I am already going to deal with month and months of noise from the major reconstruction. I am a very busy person and had to take time away from work which caused considerable stress with my manager. I am starting to feel uneasy about the addition as a whole and what a burden it places on my family, personal and professional life. I have lived here 9 years and this is our second purchased home in Pleasanton. My in-laws and I own four homes in Pleasanton and they have all resided here for 35 years. Three of them worked for the School district and my father in law volunteers daily at Walnut Grove doing campus security because my daughters and 2 nephews attend there. We are entrenched in this city because it cares for it's citizens.

Your department seems to be more concerned about someone who has moved from Folsom in the last few months and wants to make a 3500 sq./ft monstrosity of a house in a neighborhood of 1900-2800 sq./ft homes. It does not seem right to continue to push this in light of my listed concerns. I felt supportive of this virtual mansion sized home by agreeing to all of the square footage, even though it will be an outlier property on the block and the entire neighborhood.

I hope I have made my intentions clear, I would appreciate an immediate denial of the request to permit a balcony and a waiver (if necessary) of the fee to appeal because I DID NOT AGREE TO ANYTHING at the hearing on March 10th.

Best regards,

Jamison Cummings

On Fri, Mar 13, 2015 at 2:43 PM, Eric Luchini <ELuchini@cityofpleasantonca.gov> wrote:

Hello Zarina and Jamison:

Thank you again for your attendance and contributions at the 3/10/15 ZA hearing. Pursuant to that meeting, please find attached the following:

1. Revised Conditions of Approval;
2. Restrictive Covenant; and
3. Exhibit A to the Restrictive Covenant.

Based on further evaluation of the plans and a site visit, the Zoning Administrator and staff feels this plan adequately addresses the privacy concerns raised at the ZA hearing on 3/10/15. The intent of maintaining the existing Mulberry Tree and planting the new and evergreen Camphor Tree is to provide full screening of the swimming pool and rear yard area from the subject addition and balcony. Additionally, given the starting and ultimate

size of the new Camphor Tree, the Zoning Administrator and staff believe this single tree approach is the most effective in addressing the expressed concerns, especially given the fact that the Mulberry Tree will remain and Jamison also has two Bay Trees within his backyard for additional screening. Additionally, planting this evergreen species of tree in the proposed location within the grass area and away from the fence will ensure minimal tree litter being dropped into Jamison's swimming pool, and also remove the issue of future fence damage and maintenance from a row of trees planted so closely to the fenceline. Moreover, this species of tree is a low water user and relatively low on maintenance.

This is the final determination of the Zoning Administrator as expressed at the 3/10/15 ZA Hearing. Obviously, your feedback is welcome; however, the decision rendered at the 3/10/15 ZA hearing was to approve the entire project. As such, if this approach does not adequately address your concerns, the decision of the Zoning Administrator is appealable to the Planning Commission. An appeal must be made in writing by 5:00 p.m. on Wednesday, March 25, 2015, and the accompanying appeal fee of \$6.25 is due payable by that time as well.

Please review the attached documents and/or let me know if you have any questions or comments.

Best regards,

Eric Luchini

Associate Planner

City of Pleasanton

Community Development Department

Planning Division

P.O Box 520 / 200 Old Bernal Avenue

Pleasanton, CA 94566-0802

eluchini@cityofpleasantonca.gov

(p) [925-931-5612](tel:925-931-5612)

(f) [925-931-5483](tel:925-931-5483)



From: Eric Luchini
Sent: Friday, February 27, 2015 9:28 AM
To:
Subject: RE: Zoning Administrator Hearing - 5196 Hummingbird Road, Pleasanton

Hello all:

As a reminder, we are set for a Zoning Administrator Hearing on the above referenced project for Tuesday, March 10, 2015 at 10 a.m. in the Planning Division Conference Room. Please plan to arrive by 9:50 a.m. and ask for me at the front desk. Adam Weinstein will be the Zoning Administrator.

For more information on the project, please see the email below that includes the full project description.

Attached to this email are the proposed/draft conditions of approval for the Zoning Administrator's consideration. These conditions may be attached and/or modified in any manner by the Zoning Administrator at the hearing.

In the meantime, if you have any questions, please do not hesitate to contact me in advance of the meeting.

See you all soon.

Best regards,

Eric Luchini
Associate Planner
City of Pleasanton
Community Development Department
Planning Division
P.O Box 520 / 200 Old Bernal Avenue
Pleasanton, CA 94566-0802
eluchini@cityofpleasantonca.gov
(p) [925-931-5612](tel:925-931-5612)
(f) [925-931-5483](tel:925-931-5483)



From: Eric Luchini
Sent: Friday, February 06, 2015 9:10 AM
To:
Subject: Zoning Administrator Hearing - 5196 Hummingbird Road, Pleasanton

The City of Pleasanton Zoning Administrator has set **Tuesday, March 10, 2015, at 10:00 a.m.**, at the Planning Conference Room, 200 Old Bernal Avenue, Pleasanton, California, as the time and place to consider the following matter:

P15-0037, Zarina Kiziloglu

Application for Administrative Design Review approval for Zarina Kiziloglu (P15-0037) to: (1) construct an approximately 297-square-foot single-story addition to the rear; (2) construct an open-sided second-floor balcony above the single-story addition to the rear; (3) construct an approximately 558-square-foot second-floor

addition on the east side; (4) install a new roof with five dormers, raising the roofline above the porch from approximately nine feet to ten feet; (5) install eight new vinyl windows and two new doors on the second floor; and (6) replace and/or reconfigure all existing windows with new vinyl windows at the existing residence located at 5196 Hummingbird Road.

The Zoning Administrator may approve, modify, or deny the application or recommend to the Planning Commission any action deemed in the public interest.

NOTICE IS HEREBY GIVEN that the above hearing shall be held, and persons concerned shall be heard by the Zoning Administrator.

Please contact me, Eric Luchini, Associate Planner, by phone at [\(925\) 931-5612](tel:925-931-5612), or by e-mail at eluchini@cityofpleasantonca.gov with any comments or concerns you may have related to this item prior to the meeting so that all issues can be addressed.

Eric Luchini

Associate Planner

City of Pleasanton

Community Development Department

Planning Division

P.O Box 520 / 200 Old Bernal Avenue

Pleasanton, CA 94566-0802

eluchini@cityofpleasantonca.gov

(p) [925-931-5612](tel:925-931-5612)

(f) [925-931-5483](tel:925-931-5483)

**MINUTES
ZONING ADMINISTRATOR
Pleasanton, California**

Small Planning Conference Room
200 Old Bernal Avenue, Pleasanton
Tuesday, March 10, 2015

CALL TO ORDER

The meeting was called to order at 10:00 a.m. by Adam Weinstein, Planning Manager.

Present: Zarina Kiziloglu, Applicant
Jamison Cummings, Appellant
Staff: Adam Weinstein, Planning Manager and Zoning Administrator, Eric Luchini, Associate Planner

P15-0037, Zarina Kiziloglu

Application for Administrative Design Review approval for Zarina Kiziloglu (P15-0037) to: (1) construct an approximately 297-square-foot single-story addition to the rear; (2) construct an open-sided second-floor balcony above the single-story addition to the rear; (3) construct an approximately 558-square-foot second-floor addition on the east side; (4) install a new roof with five dormers, raising the roofline above the porch from approximately nine feet to ten feet; (5) install eight new vinyl windows and two new doors on the second floor; and (6) replace and/or reconfigure all existing windows with new vinyl windows at the existing residence located at 5196 Hummingbird Road.

Mr. Weinstein, Planning Manager, welcomed the group to the Zoning Administration Hearing to discuss P15-0037. He asked the Associate Planner, Eric Luchini, to give a brief description of the application.

Mr. Luchini stated Zarina Kiziloglu submitted an Administrative Design Review application on January 26, 2015. Notices were sent to surrounding property owners on January 28, 2015, as required for all Administrative Design Review applications. On February 4, 2015 Jamison Cummings requested a formal Zoning Administrator hearing for the project, expressing his concern about privacy in relation to the balcony portion of the proposed plans. Staff has found the project meets all development standards of the R-165 zoning district and therefore recommends approval of the project as designed with standard conditions of approval.

The public hearing was opened.

Mr. Weinstein asked Ms. Kiziloglu to discuss the reasoning for the balcony and what considerations were made in the design of it.

Ms. Kiziloglu stated the balcony adds space, provides a view, and increases property value. Ms. Kiziloglu also noted that neighboring properties have balconies. Ms. Kiziloglu explained that when designing the balcony and placement of the balcony consideration was made in building it as far away from neighboring properties as possible in an attempt to avoid the

issue of privacy. Ms. Kiziloglu expressed how ideally the balcony would have extended another five feet or so over the first-floor addition, but in consideration of Mr. Cummings property it was moved as far as possible.

Mr. Weinstein asked Ms. Kiziloglu to explain why there is a portion of the back façade that projects outward an additional 18-inches or so from the rest of the balcony.

Ms. Kiziloglu explained the portion that projects out is for the staircase and was designed in that particular location to add privacy on the side facing Mr. Cummings residence.

Mr. Weinstein asked Ms. Kiziloglu if she contacted any of the neighbors, including Mr. Cummings, when working on the design.

Ms. Kiziloglu stated she talked to her neighbor to the right because he is a commercial builder. Ms. Kiziloglu said the neighbor did not want to look at the plans and because he is friends with Mr. Cummings she assumed there would be no issues with any neighbors.

Mr. Weinstein asked if Ms. Kiziloglu if as a resolution to the privacy issue she would be willing to plant additional vegetation along the property line shared with Mr. Cummings.

Ms. Kiziloglu stated she had already planted four trees along the property line shared by Mr. Cummings and she plans to plant an additional four to five trees once she decides on the species.

Mr. Weinstein asked Ms. Kiziloglu what tree species she is considering.

Ms. Kiziloglu explained the current trees along that property line are fruit trees and she is looking into planting Cypress trees to match what is already along the rear property line.

Mr. Weinstein asked Mr. Cummings to address his concerns for the project.

Mr. Cummings stated he supports Ms. Kiziloglu's plan to make the house look nicer, but he does not support the design of the balcony due to the issue of privacy. According to Mr. Cummings the subject property with the proposed plans will become an outlier in the neighborhood. Mr. Cummings stated he discussed the project with various neighbors who were not noticed for the project and according to Mr. Cummings these neighbors were not supportive of the proposed plans. Mr. Cummings addressed apprehension regarding the probable construction noise disrupting the neighbors during the summer months. Mr. Cummings explained the privacy concern stems from the fact he has young daughters and the applicant has sons who could potentially see his daughters in the backyard if the plans are approved. Mr. Cummings also addressed the fact Ms. Kiziloglu could rent out or sell her property to somebody who could take advantage of the view into his backyard, specifically in regard to his daughters. Mr. Cummings stated he does not want added vegetation as the current vegetation already makes it difficult to keep his pool clean. Mr. Cummings stated he did his own survey of all the two story houses in the neighborhood connecting to Hummingbird Road including Raven, Crestline, and Sandpiper and from his observation none of the roughly 70 homes had a rear-facing balcony. Mr. Cummings said that of the roughly 800 homes in Pleasanton built by Morrison Homes none of them, to his knowledge, were built with rear-facing balconies supporting his earlier statement that the subject property will

become an outlier in design. Mr. Cummings said he would not have an issue with a front-facing balcony. Another privacy related concern of Mr. Cummings is that if he were to remove the existing pergola in the rear of his residence then the subject property balcony would have a view directly into the bedroom of his residence. Mr. Cummings produced a petition he had signed by 9 of the surrounding neighbors in opposition of the project. Mr. Cummings reiterated his only concern is with the balcony, and that he is in favor of the rest of the plans.

Mr. Weinstein thanked the applicant and appellant for remaining civil in their statements. Mr. Weinstein addressed Mr. Cummings concern regarding organic material from the vegetation falling in to his pool. Mr. Weinstein stated Cypress trees are desirable in cases such as this as they typically do not shed much organic material. Mr. Weinstein asked Mr. Cummings if he would be accepting of the species.

Mr. Cummings responded he is very familiar with Cypress trees, that he had 21 of them at his previous residence. Mr. Cummings agreed the trees don't release much organic material if they are healthy and he's seen them grown to create an almost 40-foot hedge. Mr. Cummings does not agree that planting Cypress trees will rectify his concern for privacy as they could potentially become a nuisance if they are not healthy and the issue that they are not permanent.

Mr. Weinstein stated the Planning Division can, through the conditions of approval, require characteristics of the hedge pertaining to health, long-term maintenance, height, and transparency. Mr. Weinstein asked Mr. Cummings if his apprehensions regarding the tree height and health were addressed through the conditions of approval would it sufficiently mitigate the privacy issues.

Mr. Cummings said he would consider Mr. Weinstein's proposal, however, he is hesitant of the solution due to the fact it takes a long time for the trees to grow.

Mr. Weinstein replied that planting Cypress trees with the proposed conditions of approval would provide a barrier between the properties allowing Ms. Kiziloglu to build the balcony while maintaining the privacy desired by Mr. Cummings.

Mr. Cummings replied that the proposed solution is not sufficient for him. Mr. Cummings is concerned what would be required of him if the conditions of approval were not upheld in the long run. Also, Mr. Cummings addressed the fact it is difficult to grow the trees into a non-transparent hedge formation.

Mr. Weinstein responded the City has used vegetation such as Cypress trees as a solution to privacy issues in several other cases. Mr. Weinstein explained that the City would perform inspections of the trees to ensure the conditions of approval for the project are met. Mr. Weinstein further explained that if Mr. Cummings felt the trees were not adequately maintained it would only take one phone call to the City in order for the City to take action and impose additional mitigation measures. Mr. Weinstein stated efficacy of the conditions of approval is something the City can be certain of. Mr. Weinstein asked Mr. Cummings if, knowing these facts, he would accept the trees as a solution.

Mr. Cummings replied no. Mr. Cummings explained that it would impose an indefinite amount of work on his behalf to observe the conditions of the trees and to make the calls to the City if and/or when issues arise.

Mr. Weinstein asked Mr. Cummings if he had any mitigating strategies that would allow Ms. Kiziloglu to build her balcony while providing the desired level of privacy to his residence.

Mr. Cummings replied the trees are the only real solution; however, he does not want this to be the resolution because it would require action on his part indefinitely.

Mr. Weinstein asked Mr. Cummings if he would consider the trees if City Staff were to actively monitor them.

Mr. Cummings replied absolutely not. Mr. Cummings explained, to his knowledge, there are no other homes with rear-facing balconies in the area. Mr. Cummings stated his one-story home is already overshadowed by Ms. Kiziloglu's two-story property. Mr. Cummings said the design is unbalanced for the neighborhood, that the subject residence is already significantly larger than the majority of the residences in the area.

Mr. Weinstein asked Ms. Kiziloglu if she would like to provide a rebuttal to Mr. Cummings' concerns.

Ms. Kiziloglu replied that her sons are well-mannered children and she does not believe they should be of concern to Mr. Cummings. Ms. Kiziloglu explained that the proposed plans are to expand the second story of the house over the existing first story, so the house will not be any wider on the base, only taller. Ms. Kiziloglu said the balcony addition is only 297-square-feet, which is very minor and would hardly be noticeable in her opinion. Ms. Kiziloglu stated she has family ties in the neighborhood and after retirement plans to reside in the residence for the remainder of her life. Ms. Kiziloglu stated she is willing to do whatever it takes to mitigate the privacy concern of Mr. Cummings.

Mr. Weinstein asked Ms. Kiziloglu if she had any mitigating strategies that would resolve the issue of privacy.

Ms. Kiziloglu replied that she informed Mr. Luchini that she would be willing to reduce the width of the balcony by one foot so there would be less space to walk out. Ms. Kiziloglu explained that most residences in the vicinity of her property don't have rear-facing balconies because they have neighbors to the rear, but the subject property has open space to the rear.

Mr. Weinstein asked Ms. Kiziloglu if she could further explain how the balcony width would be modified.

Ms. Kiziloglu opened the plans and showed how her architect could re-draw the plans to reduce the balcony width by one foot.

Mr. Luchini stated the current plans are for a five-foot wide balcony. Mr. Luchini explained he and Ms. Kiziloglu discussed reducing the overall width to four feet. Mr. Luchini also explained that the staircase creates a two-foot wall, so the proposed modification would only allow two feet of exposed space on the side facing Mr. Cummings residence.

Mr. Weinstein asked Ms. Kiziloglu if she would be open to modifying the staircase to create a larger wall.

Ms. Kiziloglu stated the staircase cannot be changed as it would create floor area ratio (FAR) issues.

Mr. Luchini asked if the stem-wall on the outside could be extended up higher to eliminate the direct view to the west.

Mr. Cummings interjected that he is opposed to the balcony regardless of any mitigating solutions.

Ms. Kiziloglu answered the stem-wall cannot be increased because there is a large Mulberry tree there.

Mr. Cummings stated he has a Bay tree on the other side of the Mulberry tree.

Ms. Kiziloglu explained the trees are both Heritage Trees and cannot be removed.

Mr. Cummings added that Mulberry trees are typically pruned every six months so the privacy provided by it is not consistent.

Ms. Kiziloglu replied she does not prune the Mulberry tree as far back as recommended solely to retain the privacy between her and Mr. Cummings' properties.

Mr. Cummings agreed that Ms. Kiziloglu has not pruned the Mulberry tree as far back as suggested; however, Mr. Cummings stated he cannot go on Ms. Kiziloglu's word that she will reside in the residence her entire life. Mr. Cummings is worried that a future neighbor could prune the Mulberry tree more than Ms. Kiziloglu has.

Mr. Weinstein asked Mr. Cummings if he would agree to the proposed project if there were a monitoring program implemented to ensure the condition of the hedge along with the reduction in the width of the balcony.

Mr. Cummings replied he does not want the burden of having to go to his neighbor or to call the City if one of the trees gets sick or needs maintenance. Mr. Cummings added the trees will shorten the lifespan of the fence if planted right up against it, costing him time and money to replace it.

Ms. Kiziloglu said she would agree to the maintenance and cost of the fence being her responsibility.

Mr. Cummings replied he could not go on her word, and that there would still be the risk of Ms. Kiziloglu renting or selling the property in the future and the new neighbor not agreeing to the responsibility.

Mr. Luchini interjected that once the balcony is built the Conditions of approval would go away; however, Mr. Cummings could request a restrictive covenant be recorded against the

property that would run in perpetuity regardless of who owns the property, and would set the parameters of what Mr. Cummings would require for approval of the balcony.

Mr. Weinstein asked Mr. Cummings if that restrictive covenant proposal would suffice his concerns.

Mr. Cummings replied he is more comfortable with the restrictive covenant proposal; however, he would need some time to think about it before making a decision. Mr. Cummings also asked if he could see an example of an existing restrictive covenant. Mr. Cummings also would like explanation of how the trees could be grown to assure the hedge shape and privacy.

Mr. Weinstein replied the conditions of approval would specify the minimum height and spacing of the trees to create the density required.

Mr. Cummings asked Mr. Weinstein if a maximum height would be required as well.

Mr. Weinstein replied that a maximum height could be specified.

Mr. Luchini interjected the exact language of the condition is flexible. Mr. Luchini stated the immediate issue would be the minimum height, which would be specified in the conditions.

Mr. Cummings asked if Ms. Kiziloglu would be required to purchase fully mature trees to plant or how the trees would reach the minimum height in a timely manner.

Mr. Luchini replied yes, Ms. Kiziloglu would be required to purchase mature trees to meet the minimum height.

Mr. Weinstein reiterated the conditions of approval could specify the number, maturity, density, minimum height, maximum height, lack-of-transparency, health, and so-forth of the trees.

Mr. Cummings asked if those are quantifiable values.

Mr. Weinstein replied yes, they are. Mr. Weinstein added the conditions of approval would assure the required level of privacy and the restricted covenant would guarantee the conditions be upheld for the life of the property.

Mr. Cummings asked if he could be provided a covenant example to take and discuss with his neighbors.

Mr. Weinstein asked the Staff if the meeting should be continued to allow Staff time to draft the restrictive covenant or what should be done.

Mr. Luchini responded yes, the meeting could be continued to allow time for the restrictive covenant to be drafted. Mr. Luchini stated the draft covenant could be reviewed by Mr. Cummings and a date could be set for another Zoning Administrator hearing in which a decision could then be made. Alternatively, Mr. Luchini explained, the Zoning Administrator

could approve the application and add the conditions before a building permit is issued, or the Zoning Administrator could deny the application.

Ms. Kiziloglu asked that the maturity and height of the trees upon planting be reasonable in respect to the fact Mr. Cummings has stated he is not weary of Ms. Kiziloglu peering into his yard but rather of future residents. Ms. Kiziloglu stated she will be residing at the subject residence long enough for the trees to grow to the desired height. Ms. Kiziloglu also asked that the language of the condition pertaining to the fence repair specify that she will be financially responsible only if the damage is caused by the trees.

Mr. Weinstein asked Mr. Cummings and Ms. Kiziloglu if they would agree to the proposed solution of crafting specific conditions in regard to the trees. Mr. Weinstein explained, the Staff would craft conditions of approval specifically addressing the size and density of the trees required to form a hedge, and Staff would draft a restrictive covenant to address long term maintenance and fence issues. Mr. Weinstein said the draft conditions of approval and restrictive covenant would be sent to Ms. Kiziloglu and Mr. Cummings for review and comments.

Mr. Cummings said he would need time to review the conditions and discuss the proposal with his wife.

Mr. Weinstein again asked Mr. Cummings and Ms. Kiziloglu if they would agree to continue the hearing to a later date in order to craft and review the conditions.

Ms. Kiziloglu responded the construction has already been delayed for months due to the time it took to fill out the necessary paperwork and get to the point it is now. Ms. Kiziloglu asked if she could get a conditional permit to begin the construction not necessarily related to the balcony, such as pouring the foundation.

Mr. Cummings agreed to Mr. Weinstein and Ms. Kiziloglu's proposals.

Mr. Weinstein asked Mr. Luchini if he could conditionally approve the portion of project not pertaining to the balcony so Ms. Kiziloglu could begin that construction while the balcony conditions were being crafted.

Mr. Luchini replied that the 15-day appeal period begins on the date of approval from the Zoning Administrator. Mr. Luchini explained that Ms. Kiziloglu would have to wait until the appeal period ends before pulling a permit for the project. Mr. Luchini added that there is a waiver that can be filled out during the 15-day appeal period that would allow the applicant to submit for plan check at the risk of the project being appealed. Mr. Luchini addressed his concern that it could take a couple of weeks to draft the conditions of approval and if Mr. Weinstein were to approve the project today in order to start the 15-day appeal period, it would only leave a very short window for either party to appeal the decision if they were not in agreement with the conditions.

Mr. Weinstein responded he could approve the project with the exception of the balcony today, adding a condition that the conditions of approval for the balcony and restrictive covenant be crafted and sent to the applicant and appellant for review at which time another Zoning Administrator hearing could be set.

Mr. Luchini responded that the approval letter would have to be revised to remove the balcony entirely in order for that scenario to work.

Ms. Kiziloglu replied she does not agree. Ms. Kiziloglu explained the conditions of approval for the balcony are to address the vegetation requirements and not the balcony itself; therefore the balcony would be approved either way and so it should remain in the approval letter.

Mr. Luchini stated the language would have to be added to the Zoning Administrator's approval today and not continued to a later date.

Mr. Weinstein responded he could add the language today that the balcony be subject to the approval of both the applicant and appellant.

Mr. Luchini agreed the language could be added today; and he explained that the applicant and appellant would both have the opportunity to appeal the decision to the Planning Commission if they were not satisfied with the conditions of approval crafted after today's hearing.

Mr. Weinstein responded he is in favor of this solution.

Mr. Luchini asked that the City Attorney be consulted after the meeting to be sure the conditions set forth in the approval letter are acceptable.

Mr. Weinstein asked if there were any closing comments from the applicant or appellant.

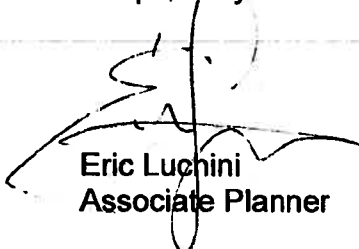
(No comments were made).

The Public Hearing was closed.

The Zoning Administrator granted approval of P15-0037, subject to the condition that Staff will craft a new condition of approval that relates to the creation of a vegetative barrier with performance measures that specify minimum and maximum tree height, density of trees, degree of transparency, long-term maintenance, and a replacement of the fence; and that the conditions be sent to both the applicant and appellant for approval at which time, if both parties agree, the condition would be imposed.

As there was no further business, the Zoning Administrator adjourned the meeting at 10:45 a.m.

Respectfully submitted,

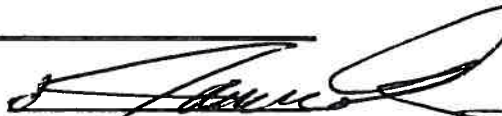
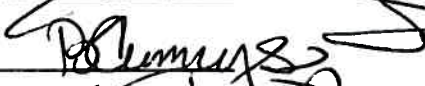

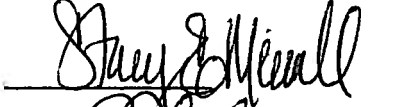

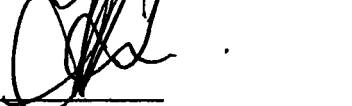





Eric Luchini
Associate Planner

Petition against permit application P15-0037

We, the residents of Birdland on or around Hummingbird Road object to the application by Zarina Kiziloglu at 5196 Hummingbird Road to build a rear-facing balcony. In application P15-0037 she is requesting permission from the City of Pleasanton to build a rear-facing balcony of the second story of her home overlooking her backyard, valley avenue and other neighbors. We feel this sets a bad precedent for building and is an outlier in building design in the entire Morrison Homes development of Birdland and Pleasanton Valley. It also violates the privacy of the neighbors by giving a view of their backyard.

Name Address Signature

Jamison Cummings		
Elizabeth Cummings		
Tom Merrill		
Stacy Merrill		
PJ Alfreid		
April Pecinos		
Michelle Meyers		
Steve Meyers		
Dan Haag		

Jamison and Elizabeth Cummings

Pleasanton, CA
94566

March 20, 2015

Adam Weinstein, City of Pleasanton Planning Manager

Adam,

I would like to appeal your decision to approve P15-0037 per our hearing on March 10th 2015. Attached is my check of \$6.25 fee for the appeal.

Please contact me if you have any questions or need more information.

Regards,

Jamison Cummings

RECEIVED

MAR 22 2015

CITY OF PLEASANTON
PLANNING DIVISION

P15-0037

Eric Luchini

From: Jamison & Betsy Cummings
Sent: Tuesday, March 24, 2015 11:28 PM
To: Eric Luchini
Subject: Re: Zoning Administrator Hearing - 5196 Hummingbird Road, Pleasanton

Eric,

Thanks for the follow up. I would like to confirm the letter I handed you was adequate for the appeal of the balcony along with the confirmation of the appeal fee has been received.

I do not support the trees in any way, shape or form being planted as a remedial action to a balcony being built by my neighbor.

I am prepared to do everything within my power to stop this and I do not agree that you have worked hard as no one has spoken to us or asked to enter my property since the hearing.

If your department has worked so hard, why has no one spoken with us further? Why has no one actually walked our property and proven to us that a row of spear shaped trees will provide privacy? No one has asked about my irrigation, pool filtration and plumbing that risks being damaged by trees.

I truly think your department does not understand our concerns for privacy and the stress related health issues it has caused my wife. I would like this to be a record to express I am extremely frustrated at the city's lack of respect or even due diligence to those concerns and feelings.

It feels like there is something going on here that is biased, unbalanced and unfair. Planning department seems hell bent to give the neighbors a balcony despite vehement objections from me AND MY NEIGHBORS. No one has come to us, looked from our property, as if we are being avoided. This does not seem like a balanced investigation of our concerns but rather an effort to do what the neighbors want.

Please let me know what the next steps are after the appeal. I would like to understand what the city's next steps are for this process. So far, I have been kept in the dark with the meetings of the city planner and arborist visits regarding my fence line and privacy. I would expect a more transparent communication on this issue moving forward. Thank you.

Regards,

Jamison

On Tue, Mar 24, 2015 at 1:52 PM, Eric Luchini <ELuchini@cityofpleasantonca.gov> wrote:

Hello Jamison,

I just wanted to let you know that we have worked hard with Zarina/Kursad and our City arborist to address your concerns related to the use of a Camphor Tree as part of a vegetative screen for the approved project, and we have elected to have Zarina/Kursad plant four, 24-inch box size, Thuja Green Emeralds along the fenceline instead. These are

evergreens, drought tolerant, and will not drop a substantial amount of foliage. At this size, they will be planted approximately three to four feet from the fenceline, and three feet apart. The starting heights will be approximately seven to eight feet tall. These trees grow approximately two to three feet per year; as such, within a year, they should be upwards of nine to eleven feet tall and also be three to four feet wide, providing, in the opinion of the Zoning Administrator adequate screening to address the privacy concerns you raised at the ZA hearing on 3/10/15. We will also require a restrictive covenant to be recorded against the property requiring the trees to remain in place in perpetuity.

Again, this is the final determination of the Zoning Administrator who approved the entire project at the 3/10/15 ZA Hearing. As such, if this approach does not adequately address your concerns, the decision of the Zoning Administrator is appealable to the Planning Commission. An appeal must be made in writing and include details regarding your objections to the determination by 5:00 p.m. on Wednesday, March 25, 2015. The accompanying appeal fee of \$6.25 is due payable by that time as well. There is no fee waiver available.

If you intend to appeal, please follow the protocol above and submit within the specified period.

If you have any additional questions, I am happy to speak with you on the telephone at a time that is convenient for you. Please let me know if you wish to discuss this issue further and we will set up a time.

Best regards,

Eric Luchini

Associate Planner

City of Pleasanton

Community Development Department

Planning Division

P.O Box 520 / 200 Old Bernal Avenue

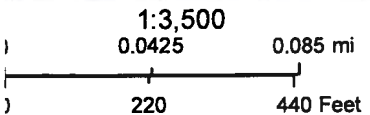
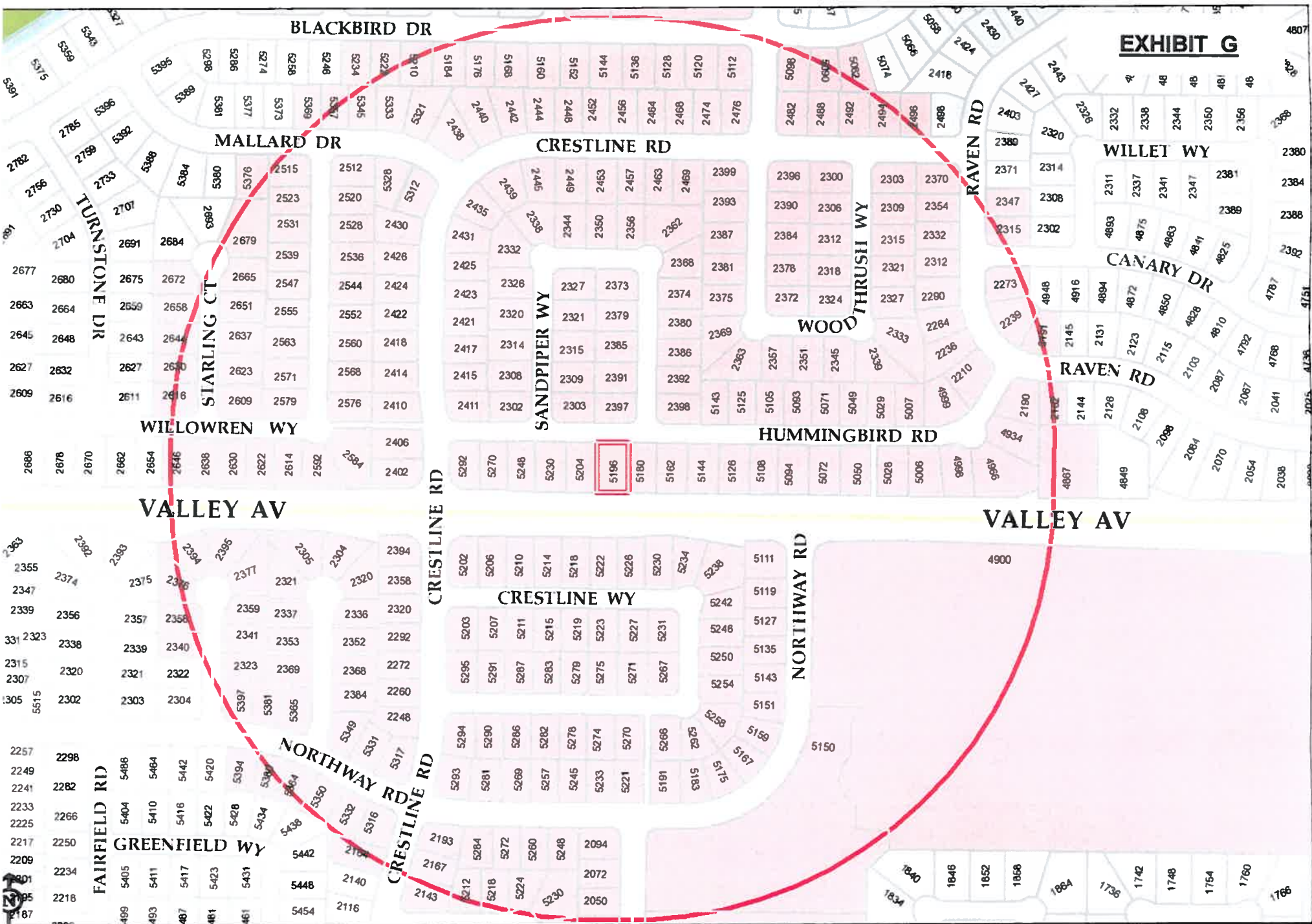
Pleasanton, CA 94566-0802

eluchini@cityofpleasantonca.gov

(p) [925-931-5612](tel:925-931-5612)

(f) [925-931-5483](tel:925-931-5483)





P15-0037, Kiziloglu, 5196 Hummingbird Rd

Planning Division
April 9, 2015

