

PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-2015-14

RESOLUTION UPHOLDING THE APPEAL OF JAMISON AND ELIZABETH CUMMINGS, THEREBY MODIFYING THE ZONING ADMINISTRATOR'S DETERMINATION, APPROVING THE PROJECT AS PROPOSED, SUBJECT TO THE SAME CONDITIONS OF APPROVAL, BUT DENYING THE SECOND-FLOOR BALCONY, AS PART OF AN ADMINISTRATIVE DESIGN REVIEW FOR KURSAD AND ZARINA KIZILOGLU, AS FILED UNDER CASE P15-0037

WHEREAS, Kursad and Zarina Kiziloglu have applied for Administrative Design Review approval at 5196 Hummingbird Road to: (1) construct an approximately 297 square-foot single-story addition with an open-sided second-floor balcony on the rear of the residence; (2) construct an approximately 558 square-foot second-floor addition above the garage on the east side of the residence; (3) install five new dormer windows; (4) install a new roof over the front porch; and (5) install new second-floor windows and doors; and

WHEREAS, zoning for the property is R-1-6,500 (One-Family Residential) District; and

WHEREAS, on March 10, 2015, the Zoning Administrator approved the application for Administrative Design Review; and

WHEREAS, within the time specified by the Pleasanton Municipal Code, Jamison and Elizabeth Cummings appealed the Zoning Administrator's decision to the Planning Commission; and

WHEREAS, at its duly noticed public hearing of May 27, 2015, the Planning Commission considered all public testimony, relevant exhibits, and recommendations of the City staff concerning this application; and

WHEREAS, projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (e), Class 1, Existing Facilities; and

WHEREAS, the Planning Commission determined that the proposed project, with the balcony, creates privacy concerns for the adjacent property and establishes a precedent of allowing second-floor balconies at the rear of residences within the subject neighborhood.

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NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES THE FOLLOWING:

Section 1. Upholds the appeal of Jamison and Elizabeth Cummings, thereby overturning the portion of the Zoning Administrator's approval relating to the second-story balcony of Case P15-0037, the application of Kursad and Zarina Kiziloglu for Administrative Design Review approval at 5196 Hummingbird Road to: (1) construct an approximately 297-square-foot single-story addition with an open-sided second-floor balcony on the rear of the residence; (2) construct an approximately 558 square-foot second-floor addition above the garage on the east side of the residence; (3) install five new dormer windows; (4) install a new roof over the front porch; and (5) install new second-floor windows and doors, subject to the Conditions of Approval as shown in Exhibit A, attached hereto and made part of this case by reference.

Section 2. This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.

THIS RESOLUTION ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF PLEASANTON ON THE 27TH DAY OF MAY 2015 BY THE FOLLOWING VOTE:

AYES: Commissioners Ritter, Nagler, and Piper
NOES: Commissioner Balch
ABSTAIN: None
RECUSED: None
ABSENT: Commissioners Allen and O'Connor


ATTEST: 

Adam Weinstein *EMEN CLARK*
Secretary, Planning Commission

DocuSigned by:


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Herb Ritter
Acting Chair

APPROVED AS TO FORM:



Julie Harryman
Assistant City Attorney

**EXHIBIT A
CONDITIONS OF APPROVAL**

**P15-0037, Kursad and Zarina Kiziloglu
5196 Hummingbird Road
May 27, 2015**

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, except as modified by these conditions. 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 second-floor balcony shall be removed from the plans submitted for a building permit. The façade of the portion of the project from which the balcony is removed shall be designed to be substantially consistent with the rest of the design of the project, including in terms of window size and spacing, siding materials and color, and other elements, and is subject to review and approval by the Director of Community Development.
3. The colors and materials of the additions shall match those of the existing structure.
4. 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.
5. All appropriate City permits shall be obtained prior to the construction of the additions.
6. 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.

7. 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.
8. 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.

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