

**Planning Commission
Staff Report**

December 11, 2013
Item 6.a.

- SUBJECT:** P13-2028
- APPLICANT:** Anil and Divya Reddy
- PROPERTY OWNER:** Anil and Divya Reddy
- PURPOSE:** Application for Design Review Approval to evaluate the conformance of an existing single-family residence in the Ruby Hill Development to the Ruby Hill Architectural Design Guidelines.
- GENERAL PLAN:** Low Density Residential (< 2.0 du/ac) and Open Space, Agriculture and Grazing.
- ZONING:** PUD – A/OS/LDR (Planned Unit Development – Agriculture, Open Space, and Low Density Residential).
- LOCATION:** 3737 West Ruby Hill Drive
- EXHIBITS:**
- A. Draft Conditions of Approval for P13-2025, dated December 11, 2013.
 - B. [Excerpts of the Building Permit Plans, dated “Received September 30, 2013.”](#)
 - C. [Ruby Hill Architectural Design Guidelines \(updated\), dated January 2000.](#)
 - D. [Denial of “Motion for Preliminary Injunction,’ filed by Plaintiffs Anil Reddy and Divya Reddy \(‘Plaintiffs’\),” dated May 23, 2013.](#)
 - E. [Mediation Brief Prepared by Jeffrey P. Widman, dated November 13, 2012.](#)
 - F. [Declaration of Dan Hale, Architect, Principal of Hunt, Hale, and Jones, dated May 3, 2013.](#)
 - G. [Declaration of Darryl Alexander, Professional Land Surveyor, with attachments, dated May 7, 2013.](#)
 - H. [Declaration of Katherine Fonte, Association Manager for the Ruby Hill Owners’ Association, dated May 9, 2013, with attachments.](#)

- I. [Declaration of James W. McKeehan, Attorney, dated May 7, 2013, with attachments.](#)
 - J. [Declaration of Neal Sorenson, President of the Board of Directors of the Ruby Hill Owners' Association, dated May 7, 2013, with attachments.](#)
 - K. [Declaration of Robert Jones, Senior Manager of the Ruby Hill Owners' Association, dated May 8, 2013, with attachments.](#)
 - L. [Declaration of Terry Townsend, Ruby Hill Architectural Design Committee, dated May 9, 2013, with attachments.](#)
 - M. [Letters from the Ruby Hill Architectural Design Committee.](#)
 - N. [Letters from Anil Reddy. \(Applicants' photos are available upon request.\)](#)
 - O. [Letters and petition from Ruby Hill residents.](#)
 - P. [Side-By-Side Comparison of the Approved Plans and As-Built Condition for the Reddy Residence prepared by the Ruby Hill Architectural Design Committee.](#)
 - Q. [Location and Notification Map.](#)
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I. BACKGROUND

Purpose of this Public Hearing

Staff requests the Planning Commission review the constructed home occupied by the applicants, Anil and Divya Reddy, for its compliance with the Ruby Hill Architectural Design Guidelines.

Ruby Hill Development

The Ruby Hill Development including its Development Plan, Final EIR, Architectural Design Guidelines, and Pre-Annexation Agreement was first approved in Alameda County and was then annexed into the City of Pleasanton. After the annexation was completed, the City Council zoned the Ruby Hill Development to the PUD – A/OS/LDR (Planned Unit Development – Agriculture, Open Space, and Low Density Residential) District and adopted the County approved Development Plan, Development Agreement, Architectural Design Guidelines, Final EIR, and supporting materials.

Design Guidelines

Per the City's approval of the Ruby Hill PUD, custom lot building designs in the Ruby Hill Development are subject to the Ruby Hill Architectural Design Guidelines (RHADG), Exhibit C, administered by the Ruby Hill Architectural Design Committee (RHADC). The RHADG defines the review procedures, design standards for site planning, architecture, landscaping, hardscape (paving), etc., for custom homes and defines the general rules for the conduct of contractors and sub-contractors in the Ruby Hill development.

Regarding architecture, the design guidelines do not dictate architectural style, but identifies a group of styles classified as “preferred.” Chapter V. Architecture of the RHADG states:

“Traditional styles that are prevalent in the warm weather wine regions of Europe are preferred. Examples of these architectural styles would be English Country, French Country, Mediterranean, and Italian Villa. Architectural styles prevalent in the San Francisco Bay Area, such as Craftsman/Bay Area Traditional, Prairie, and Monterey/Spanish Eclectic, will also be encouraged. Contemporary interpretations of approved styles are acceptable when they are consistent with traditional features such as massing, proportions, roof lines and materials.¹”

Appendix A² of the RHADG lists design elements for each of these architectural styles. Chapter II, Design Review Process³, of the RHADG, describes in detail the design review procedures and submittal requirements. Chapter III, Procedural Flow Chart and Submittal Design Review Process⁴, summarizes Chapter II. Peer-review design services are provided by a licensed architect retained by the RHADC, who also conducts the final inspection of the completed/near completed custom home for its compliance with the RHADG and the RHADC approval.

Review Procedures for Ruby Hill for Custom Homes

The RHADG re-directs the design review responsibility for the custom homes from the City’s Planning Division to the RHADC. The RHADC issues an approval letter once it completes its review of the plans following the procedures listed in Chapter II, which then permits the applicant/owner of a custom home site to submit the approved building permit plans directly to the City’s Building Division for review. (A copy of the building permit plans is forwarded to the Planning Division only to verify setbacks, height limits, and Green Building compliance.) The RHADC can partially approve a custom home requiring such items as building materials and colors, fence and wall detailing, landscaping, etc., to be submitted later to the RHADC for review and approval before their construction. Absent the RHADC approval letter, the City will not accept the building permit plans for review. (Staff notes that the review procedures of the RHADG are also required for all changes such as a building addition to a completed and occupied custom home.)

The RHADC is able to issue exceptions (called variances) to the RHADG upon request by the applicant/owner, and provides for an internal appeal and review procedure by the RHADC and, if necessary, to the Ruby Hill Board of Directors. The City Planning and Building Divisions are not part of these internal appeal procedures. The RHADG⁵ states that an owner/applicant should contact the Pleasanton Planning and Building Divisions at the beginning of the planning process is to address questions pertaining to such items as building setbacks, heights, required parking, etc., or compliance with the California

¹ Exhibit C, RHADG, p. 20.

² Exhibit C, Appendix A, Examples of Architectural Styles, pp. 36-57.

³ Exhibit C, RHADG, pp. 5-10.

⁴ Exhibit C, RHADG, p. 11.

⁵ Exhibit C, RHADG, p. 5.

Building Code. Since the Planning Division and Building Division do not review the building design, the owner/applicant is directed to obtain design comments and approval from the RHADC.

Building Construction, Final Inspection, and Occupancy for Custom Homes

Ruby Hill custom homes are inspected by the RHADC including the peer review architect for compliance with the RHADC's approval and either issues a correction list to the owner/applicant or sends a letter to the City's Building Division stating that the completed building complies with the RHADG. City Building Inspectors also conduct their inspections of the building for compliance with the Building Code and issues their correction list.

The Chief Building and Safety Official (CBSO) issues a Final Certificate of Occupancy (FCO) after any design corrections are completed to the satisfaction of the RHADC and all building permit corrections are completed in compliance with the California Building Code. Absent the RHADC completion letter, the CBSO will not issue the FCO. (Staff notes that this last step is not identified in the RHADG; the CBSO initiated this step to be assured that the design of the constructed home conforms to the plans approved by the RHADC. The Planning Division normally conducts the final design inspections of custom homes in developments outside Ruby Hill.) Upon request by the applicant/owner, the CBSO may issue a Temporary Certificate of Occupancy (TCO) for a specific period of time; the CBSO's determination is based on the amount and type of the work to be done (cosmetic, life-safety related, zoning, etc.) and the requirements of the California Building Code that are required to be met.

Ruby Hill and City Approvals of the Applicants' Home

The RHADC approved the applicants' building plans on June 30, 2010. The RHADC approval letter⁶ was conditioned:

“At this time, the exterior color and materials and landscaping have not been reviewed or approved.”

The RHADC approved the applicants' landscaped plans for their property on July 25, 2012. The RHADC approval letter⁷ was conditioned:

“The proposed gazebo is not approved – exceeds the maximum height of 15' and proposed dome is too ornate.”

The City's Building Department issued its first Building Permit (RES2-200581) for the applicant's home on November 19, 2010, which expired and was replaced by a second Building Permit (B12-1990) issued on September 6, 2012. The applicants acted as the owner-builder for the construction of their home.

⁶ Exhibit M, “Ruby Hill Final Design Submittal, Lot O-02 @ 3737 W. Ruby Hill Drive, Pleasanton, CA 94566.”

⁷ Exhibit M, “Ruby Hill Landscape and Irrigation Plan Submittal, Lot O-02 @ 3737 W. Ruby Hill Drive, Pleasanton, CA 94566.”

Final Inspection of the Applicants' Home

Compliance with the RHADG is the issue between the RHADC and the applicants on the design of their home as constructed.

The RHADC and their peer review architect conducted their final inspection of the applicants' home on March 18, 2012, and issued a correction letter⁸ that identified 49 items of the constructed home that needed to be corrected. Many of these items related to the fact that the applicants' home was constructed differently from the project plans that were approved by the RHADC and the building permit plans approved by the City's Building Division. As a result of corrections made by the applicants to their home and concessions made by the RHADC, the list was reduced from the 49 original items to the following seven items:

1. The heights of the constructed columns flanking the entrance at the auto court and the light fixtures on top of the columns do not comply with the RHADC approval.
2. The bright white color applied to the front and side building elevations and the number of colors applied to the rear building elevations do not comply with the RHADG.
3. A two-car garage was finished as a room with marble floors and ornate glass garage doors facing West Ruby Hill Drive in place of the solid doors shown on the building permit plans.
4. The ornate design of the glass entrance doors on the front building elevation facing West Ruby Hill Drive.
5. Grading encroachments and drainage issues at neighboring properties.
6. The height of the rear yard gazebo and the design of the gazebo's canopy.
7. The design of the capitals on the front and rear building columns.

The RHADC and the applicants were unable to achieve agreement on these seven items – the RHADC determined that the outstanding design issues results in the applicants' home not conforming to the RHADG as well as to its approval. The applicants, however, believe that their home as constructed complies with the RHADG due to the flexibility provided by the RHADG from the following statement⁹:

“It is not the intent of these guidelines to dictate specific architectural styles that must be used within the community, but rather to give property owners, their architects or designers a set of guidelines that will make the entire community a more attractive place to live. These guidelines are created to encourage a community of individual outstanding architectural statements that, when viewed together, produce a pleasant living environment.”

The RHADC did not concur with the applicants and required these items to be corrected before it would notify the Chief Building and Safety Official that the applicants' home complied with the RHADC's approval and, therefore, with the RHADG. For this reason,

⁸ Exhibit M, “Ruby Hill Architectural Final Inspection, Lot O-02 @ 3737 W. Ruby Hill Drive, Pleasanton, CA 94566.”

⁹ Exhibit C, RHADG, Chapter V. Architecture, p. 20.

the Chief Building and Safety Official refused to issue the FCO absent the final approval by the RHADC.

The applicants filed a Motion for Preliminary Injunction against the Ruby Hill Owners' Association (RHOA) on March 29, 2013, whereby the:

“Plaintiffs seek an order requiring the Ruby Hill Owners’ Association (‘RHOA’) ‘to perform such tasks as necessary to allow [Plaintiffs] occupancy of their home until resolution of this action on the merits.’”

On May 23, 2013, the Court ordered that:

“The Motion for Preliminary Injunction, filed by Plaintiffs Anil Reddy and Divya Reddy (‘Plaintiffs’) on March 29, 2013, is DENIED.¹⁰”

The Court identified in the ruling that the applicants had not exhausted their administrative remedies prior to filing their motion for a preliminary injunction and that the City of Pleasanton is the only party which could issue the FCO for the Reddy’s project. Because the RHADC would not issue an approval letter based on the seven items requiring correction, the City could not issue the FCO. As a result, the City agreed to process the design review application submitted by the Reddys in an effort to assist the parties to resolving the remaining issues.

The Zoning Administrator normally acts on design review applications for custom homes. Given that the issues of the applicants’ home are its compliance with the RHADC’s approval and, therefore, with the RHADG, the inability of the RHADC and the applicants to reach agreement on the remaining design issues to bring the home into compliance with the RHADG, and the sensitivity of the Ruby Hill community regarding this application, staff has forwarded the Design Review Application to the Planning Commission¹¹ for its review.

Temporary Occupancy and Application for Design Review

The applicants applied for and were denied a permit for Temporary Occupancy (TCO). The applicants appealed the Chief Building and Safety Official’s position to the City Manager who agreed to issue a TCO, allowing the applicants to occupy the residence after they agreed to submit an application for Design Review Approval to the Planning Division and to deposit the sum of \$80,000 with the City to correct the remaining items identified by the RHADC as not complying with the RHADG. The applicants submitted the cash deposit and the Design Review application and were issued a TCO to occupy their home on June 28, 2013.

¹⁰ Exhibit D, Denial of “‘Motion for Preliminary Injunction,’ filed by Plaintiffs Anil Reddy and Divya Reddy (‘Plaintiffs’),” dated May 23, 2013.

¹¹ Section 18.20.010B. of the Pleasanton Municipal Code (p. 523): “The zoning administrator may refer any of the above items to the planning commission for review and action.”

II. SITE AND SURROUNDING LAND USES

The applicants' home is constructed on an approximately 35,100 square-foot property located near the southwest border of the Ruby Hill Development with Alameda County. Access to the site is provided from West Ruby Hill Drive.

Figure 1, below, is the 2005 aerial photograph/location map of the applicants' property and surrounding properties.



Figure 1, 2005 Aerial Photograph/Location Map.

Surrounding land uses include a City water tank on the west side of the applicants' property, custom single-family homes on the north and south sides of the applicants' property, and custom single-family homes across West Ruby Hill Drive to the east of the applicants' property.

Figure 2, below, is a photograph of a custom home on the south side of the applicants' property and Figure 3, below, is a photograph of a custom home to the east of the applicants' property on the east side of West Ruby Hill Drive.



Figure 2, Custom Home on the South Side of the Applicants' Property.



Figure 3, Custom Home on the East Side of West Ruby Hill Drive.

III. PROJECT DESCRIPTION

The applicants' home is a one- and two-story tall structure constructed on a flat building pad that was rough graded with the construction of the entire Ruby Hill Development. The site area is approximately 35,100 square feet or 0.81 acres. Based on the information stated in the building permit plans submitted with the building permit¹², the applicants' home includes approximately 6,087 square feet of habitable floor area, 1,566 square feet of garage floor area provided in two separate two-car garages and a storage area, 456 square feet of unfinished second floor area, patios and second floor decks, and a two-story tower connected to the house by a two-story loggia.

Based on Section V(f)1.a., Height Restrictions¹³, of the RHADG, the overall height of the structure is approximately 37 feet, which conforms to the 40-foot height limit for this site defined by the RHADG for lots greater than 30,000 square feet. The floor area ratio¹⁴ (FAR) for the applicants' home is approximately 18.6 percent, based on approximately 6,543 square feet of finished and unfinished building floor area. (Staff notes that the RHADG do not limit the floor area ratios for custom homes.)

The applicants stated to staff that the design of their home is based on the Monterey/ Spanish Eclectic style of the RHADG with the building's proportions and detailing including elements of the Granada area (Andalusia) of southern Spain.

¹² RES2-200581 (KIVA Permit Number) issued by the Building Department on November 19, 2010

¹³ Exhibit C, p. 23.

¹⁴ The FAR is provided as information only; the RHADG do not limit floor maximum floor areas for custom homes.

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Figure 4, below, is a photograph of the front and south side elevations of the applicants' home.



Figure 4, Front and South Side Elevations of the Applicants' Home.

Figure 5, below, is a photograph of the rear elevation of the applicants' home. (Figure 7 on Page 11 of the staff report is a close-up photo of a portion of the rear elevation showing the colors.)



Figure 5, Rear Elevation of the Applicants' Home.

IV. DISCUSSION

Disputed Items between the RHADC and the Applicant/Owner

Exhibit P is the “Side-By-Side Comparison of the Approved Plans and As-Built Condition for the Reddy Residence” prepared by the RHADC and attached to the Staff Report as background information. Several of the items listed in Exhibit P, such as the horizontal belly bands on the residence, the iron garage doors on the rear building elevation, etc., are no longer opposed by the RHADC.

According to the applicants, the building’s design including its proportions and detailing includes elements of the building architecture from the Granada area (Andalusia) of southern Spain, which the applicants believes complies with the Monterey/Spanish Eclectic style of the RHADG. The RHADC states that the applicants did not construct their home in compliance with the RHADC approval and is not consistent with the Monterey/Spanish Eclectic style. The applicants and the RHADC have requested the City review and render its determination on the following disputed items between the applicants and the RHADC regarding the design of the applicants’ home.

Column heights as constructed at auto court and entry-gate.

Figure 6, below, is a photograph of the pilaster and light fixture at the entrance of the motor court.



Figure 6, Column (pilaster) on South Side of Auto Court Entrance.

The Building Permit plans approved the columns flanking the entrance to the auto court with a masonry veneer, a height of 56 inches, and with a globe-shaped light fixture on top of each column. Entrance gates were also shown on the building permit plans but, according to the RHADC, were required to be resubmitted to the RHADC for final review and approval before being installed. The RHADC¹⁵ approved a variance from the RHADG to increase the height of the columns to 60 inches but without any light fixtures mounted on top of the pilasters.

The applicants constructed the columns at a 68-inch height, without the masonry veneer and with a stucco finish, and with a 14-inch tall light fixture placed on top of each column without submitting revised construction plans of this change to the RHADC or to the City's Building Division for review. The position of the RHADC is that the height of the columns should be reduced to 60 inches and the light fixtures removed.

Section IV(h), Walls and Fences¹⁶, of the Ruby Hill Architectural Design Guidelines state:

- “All walls and fences must be approved by the Committee prior to their installation. Walls that face the street should be constructed of material that match or compliment the architectural style of the residence. Acceptable materials include stucco, stone, brick, or wrought iron with masonry columns.”
- “Low screen walls (48”) maximum height above existing grade may encroach into the front yard setback a minimum 10”-0.”

Staff supports the proposed columns as constructed as being in substantial compliance with the RHADG including the variances previously issued by the RHADC. Staff observed a variety of pilasters in the Ruby Hill development, on auto courts and front porches, and with top-treatments such as planters, finials, globes, and light fixtures comparable in appearance to the fixtures installed by the applicant.

Staff Recommendation.

Allow the columns and lights to remain as constructed. The applicants would be required to complete the review process with the RHADC for the entry gates to the auto court to be reviewed and approved by the RHADC.

Colors applied to the front, side, and rear building elevations.

Building colors were not specified on the building plans submitted to the RHADC for review and approval. For this reason, the RHADC approval letter provided to the City required the applicants submit material and color samples to the RHADC for approval before application. The applicants, however, painted the front and side building elevations a bright white color with light and medium beige trim colors and dark brown trim around the windows and doors, and painted the rear building elevations of their home with nine different colors.

¹⁵ Exhibit L, Declaration of Terry Townsend, pp. 8-10.

¹⁶ Exhibit C, pp. 18-19.

Figure 7, below, is a photograph of a portion of the rear building elevation showing the wall colors.



Figure 7, Building Colors.

Section V(b), Design Philosophy¹⁷, of the Ruby Hill Architectural Design Guidelines states:

- “The design of each residence must be compatible with the architecture of the surrounding homes whether they are existing, under construction or approved by the Committee. This applies to all elements of the design process including architecture, grading, fencing and Landscaping. The following elements are to be avoided: Harsh contrasts of color and/or materials; illogical or inappropriate combinations of scale; (due to designing a home from the inside out), poorly...¹⁸”

Section V(d5.), Acceptable Materials¹⁹, of the RHADG states:

- “All color and material selections will be reviewed during the review of the Preliminary and Final Design Submittals. Warm earth tone colors including creams, rusts, buffs, rose beige, ocher, and terra cotta are preferred. Trim colors should complement the body colors. Visible elements such as gutters, trellises, and downspouts should match the color of the architectural element they are

¹⁷ Exhibit C, p. 21.

¹⁸ This sentence from the present copy of the RHADG should end with, “...executed details and extreme interpretations of the components of each style.” According to Katherine Fonte, the copy was accidentally deleted from the RHADG due to a printing error. It is verbatim to the RHADG, dated June 1994.

¹⁹ Exhibit C, p. 23.

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attached to, or be of a complimentary color. Stark white, bright pastels or bright intense colors in large expanses will not be allowed. Color selections may be denied if they contrast with adjacent homes or match too closely other homes in the immediate area. Colors selected should be appropriate to the proposed architectural style.”

Appendix A, Examples of Architectural Styles, of the RHADG states for the Monterey/Spanish Eclectic²⁰ design style:

- “Colors are muted earth tones with brighter hues used for trim work. Stucco and wood are used for wall materials with the rock or brick used for accents.”

Figure 8, below, are photographs of two custom homes in the Ruby Development with white stucco wall colors.



Figure 8, Custom Homes in the Ruby Development with White Wall Colors.

Staff conducted windshield surveys of the Ruby Hill homes and found several Ruby Hill homes relatively nearby to the applicants’ home with the building wall colors similar to the tone and value of the white color of the applicants’ home. The applicants consider these homes and other homes in the Ruby Hill Development to be precedent setting for the color of their home. The RHADC stated to staff that some of these homes may have been repainted in non-compliance with the RHADG and that, for this reason, do not establish precedent.

The RHADC has required the applicants repaint the front, side, and rear elevations of their home in compliance with the RHADG to a single darker or muted building wall color applied to the front, side, and rear building elevations and one to two darker trim or accent colors. Staff visited the applicants’ home and discussed with the applicants the building colors. According to the applicants, the bright white body color reflects the building colors of coastal Mediterranean areas, and the nine colors applied to the rear

²⁰ Exhibit C, p. 52.

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building walls are intended to replicate the appearance of an Italian village with a variety of individual building façades facing a central plaza. When staff questioned the applicants if they would be willing to repaint their home, the applicants replied that they would prefer to keep the present colors as they are integral to the design concept of their home.

Staff concurs with the RHADC determination that the colors of the applicants' home do not comply with the RHADG. The main body building color, especially in the direct sun, is very bright and contrasts significantly with the more muted earth tone colors of the surrounding buildings, and the nine colors on the rear building walls are not consistent with the RHADG.

Staff Recommendation.

As conditioned, the applicants are required to repaint their home to a single, muted color in compliance to the RHADG; a maximum of two trim colors; and to submit color samples to the RHADC for its review and approval before application.

Conversion of one, two-car garage to living area and installation of glass garage door designs facing West Ruby Hill Drive.

Two, two-car garages are shown on the building permit plans designated as Garage 1 and Garage 2 on the building permit plans. The garages are arranged in an L-shaped pattern on the north and south sides of the auto court. Garage 1 was approved with two swing-out garage doors and Garage 2 was approved with two sectional roll-up doors. Both sets of doors were shown on the building permit plans as solid wood doors with recessed wood panels and without window glass. A storage area accessible to Garage 1 and Garage 2, with two swing-out doors facing the applicants' rear yard, is shown on the building permit plans.

Figure 9, below, is a copy of a portion of the first floor plan with the two garages and the storage area adjoining the garages.

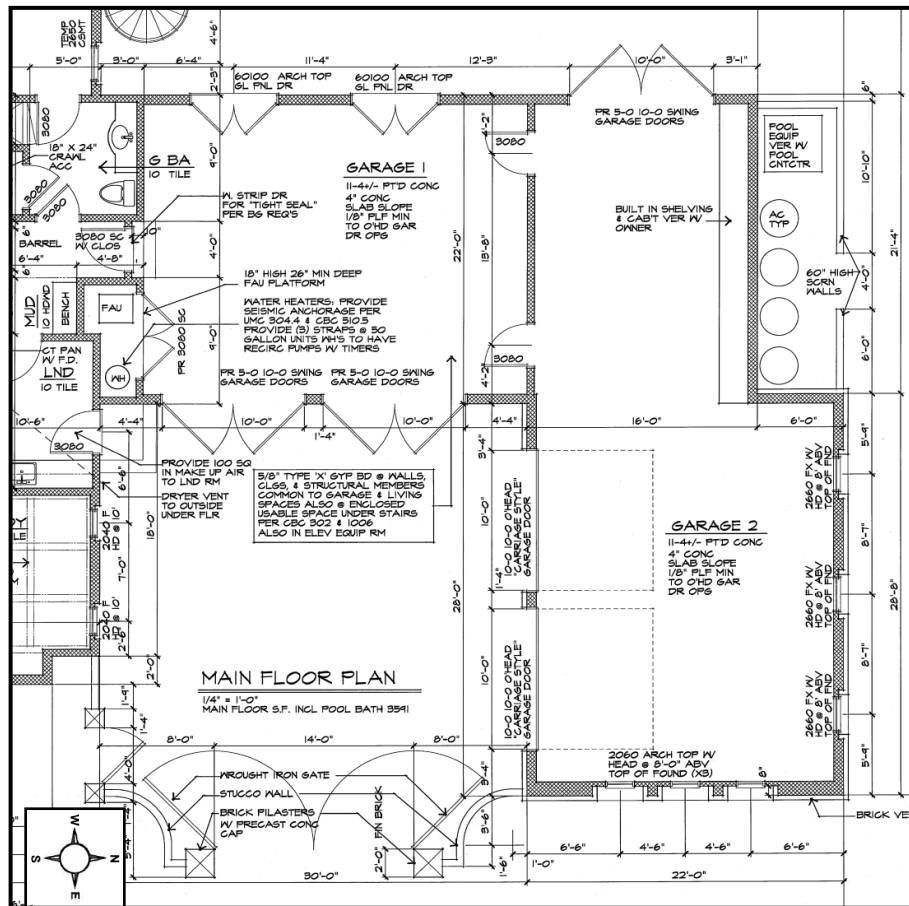


Figure 9, Garage 1, Garage 2, and the Storage Area adjoining Garage 2.

The applicants constructed Garage 2 with the sectional roll-up garage doors shown on the building permit plans and constructed Garage 1 as living area with marble tile floors and with two swing-out glass doors with decorative iron work and gold-color handles and door jambs. The glass doors are 10 feet in width, which exceeds the minimum 8-foot width required by the California Building Code for a single-car garage door. (Staff notes the California Building Code does not prohibit glass garage door(s) provided the glass is tempered according to California Building Code requirements.)

Figure 10, below, is a copy of a portion of the building permit elevation with the garage doors for Garage 1.

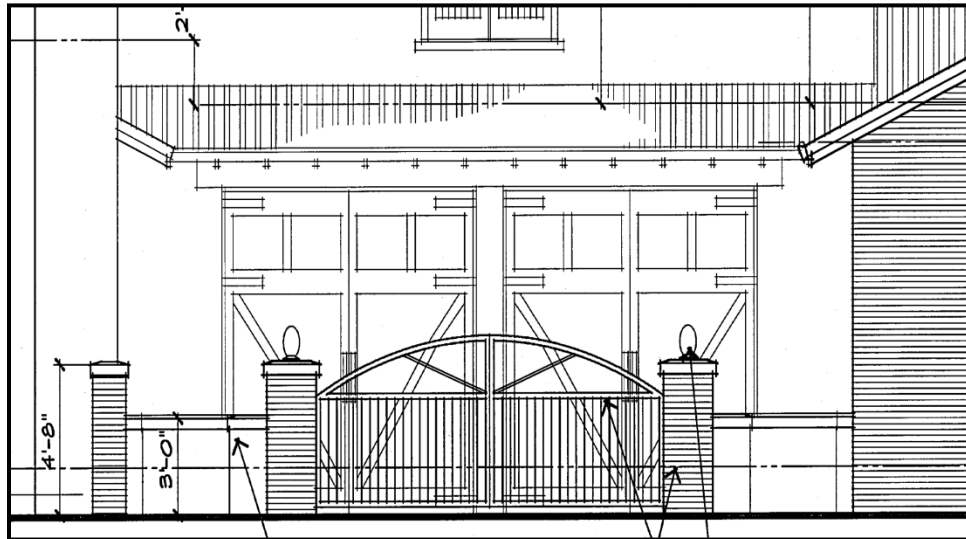


Figure 10, Garage 1 Swing-Out Garage Doors.

Figure 11, below, are photographs of the glass and solid garage doors installed by the applicants on Garage 1 and Garage 2, respectively.



Figure 11, Glass Garage Doors on Garage 1 and Solid Garage Doors on Garage 2.

Section IV(g), Garages²¹, of the RHADG state:

- “Garage openings must be designed so they do not face the street. The Architectural Design Committee requires adequate screening of garages using either landscaping, walls or a combination of both. No glazing is permitted in garage doors.”
- “At least a three-car garage is required for all Custom Homes. A four-car garage is recommended when the residence contains four-bedrooms or more. See *Section IV(d), Garage Access/Orientation, for siting requirements.*”

The RHADC required the applicants to comply with the RHADG: provide the three minimum garage spaces and replace the glass garage doors with solid wood doors. Representatives of the RHADC have also stated that the arched openings of the present garage doors can remain provided that the glass doors are replaced with solid wood doors.

The applicants stated to staff that they comply with the guidelines in that their home as constructed provides the three garage parking spaces – the two parking spaces in Garage 2 accessed directly from the auto court and the third parking space in the storage area accessed from Garage 2 – but that they would use Garage 1 as a parking garage and not as living area. (According to the City’s Building Division, the marble tiled floor has no bearing on the use of this space as a garage – vehicles can still park on it.) The applicants also stated to staff that they can install a car parking lift into Garage 2 and that a lift is being used in a Ruby Hill home located at 1225 Lozano Court.

²¹ Exhibit C, p. 23.

Figure 12, below, is a photograph of parking lift referenced by the applicants.



Figure 12, Car Parking Lift at 1225 Lozano Court.

Staff does not concur with the applicants' statement that the storage area next to Garage 2 nor a car parking lift installed in Garage 2 can be used as the third required parking space. This storage area referred to by the applicants is only accessible to the rear yard by two swing-out doors. Using the storage area as parking would create a tandem parking space, i.e., a garage space accessed through a garage space, to provide the required parking and not surplus parking. Car parking lifts have not been supported by staff to meet required parking for commercial and residential developments.

The applicants point to a Ruby Hill custom home constructed with glass garage doors as precedent for the glass garage doors on their home. This custom home located at 3724 Selvante Street was constructed with glass garage doors. RHADC allowed the glass garage doors with a variance from the guidelines as a Green Building measure – the garage is designed to store solar heat for reuse by the home – and because the southeasterly-facing garage doors do not directly face West Ruby Hill Drive. (They are, however, visible from Selvante Street.)

Figure 13, below, is a photograph of the glass garage doors on the custom home referenced by the applicants.



Figure 13, Glass Garage Doors on 3724 Selvante Street.

Staff discussed replacing the garage doors with the applicants. The applicants prefer to keep the doors as installed due to their cost; the garage doors match the design of the front entry doors; their belief that they are consistent with the design concept of their residence; and because the applicants believe that there is precedent for the glass garage doors based on the above-described custom home in the Ruby Hill Development.

Staff concurs with the RHADC that a two-car garage and the glass garage doors do not comply with the RHADG.

Staff Recommendation.

As conditioned, the applicants are required to use Garage 1 as a two-car garage to park their vehicles and to replace the glass garage doors with solid wood doors matching the design and colors of the garage doors on Garage 2 in compliance with the RHADG. The arched garage door openings may remain with the trim around the doors repainted to match the trim color around the two rectangular doors. The applicants are required to submit the revised door designs and colors to the RHADC for review and approval before the plans are submitted to the Building Division.

Entrance doors on the front building elevation facing West Ruby Hill Drive.

Three, double-entry front doors are shown on the building permit plans as solid wood doors with recessed wood panels without window glass and with arched transom

windows set above each pair of doors. Instead of installing the originally proposed and approved wooden doors, the applicants installed glass doors with very ornate decorative iron work, gold-colored door handles and hardware, and with the door trim painted gold to match the door hardware.

Figure 14, below, is a photograph of one of the three entrance doors.

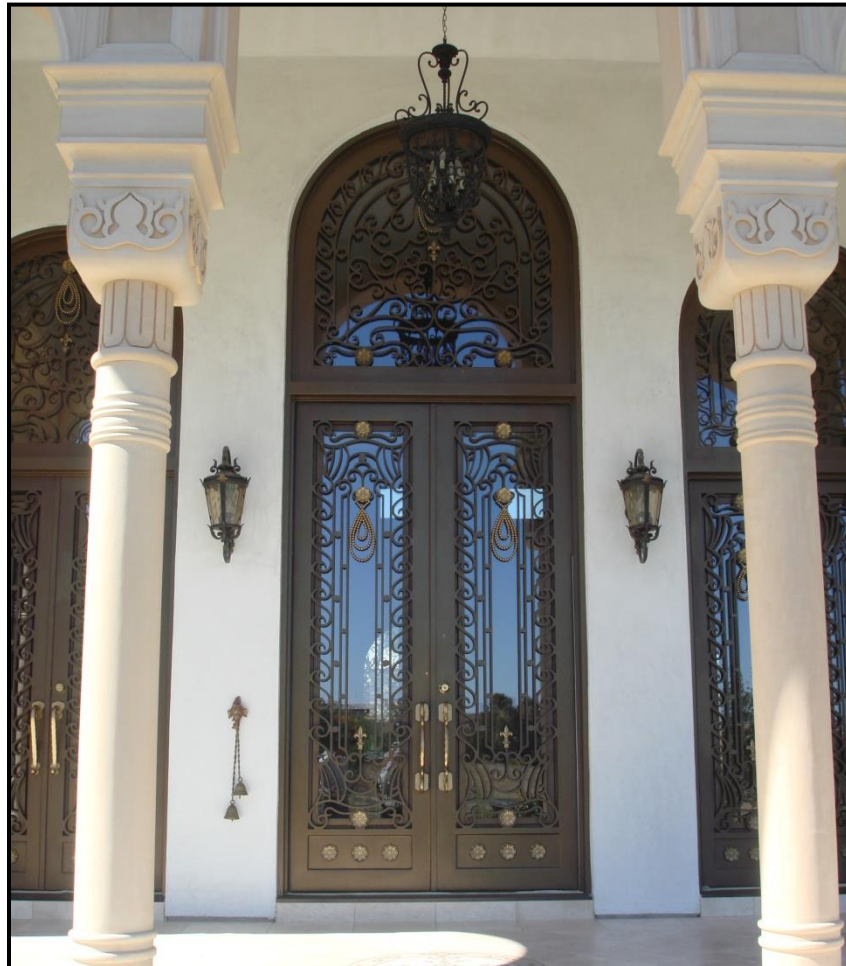


Figure 14, Front Entrance Door.

Figure 15, below, is a photograph of the front entrance doors and porch area.



Figure 15, Front Entrance Doors and Porch Area.

Section V(c)3., Design Features²², of the Ruby Hill Architectural Design Guidelines state:

- “The main entrance should have a sense of prominence that is reflected on the design. It should either include a pair of doors with or without sidelights or a single door with sidelights. The main entrance should contain more detail than other openings but be consistent in styling.”

The RHADC approved the originally proposed three pairs of front doors for the applicants’ home based on the previous approvals in the Ruby Hill Development for custom homes with multiple front doors, and because the original door designs proposed by the applicants were consistent with the Monterey/Spanish Eclectic style.⁶ The RHADC prefers to have the front doors replaced with doors that are less ornate in their appearance. The applicants prefer to keep the doors as installed based on the design concept for their home and because they believe there is precedent in the Ruby Hill Development.

Staff concurs with the applicants that the front entrance doors comply with the RHADG and that they are consistent with the number and appearance of front entrance doors in the Ruby Hill Development. The three pairs of front doors on the applicants’ home are

²² Exhibit C, p. 22.

highly ornate, probably among the most ornate found in the Ruby Hill Development. However, there is a variety of front door designs in the Ruby Hill Development with some examples similar to the ornate iron work style of the front doors on the applicants' home. Unlike the design standards of the RHADG for garage doors, the RHADG does not provide design standards specific to the design of front doors.

Figure 16, below, is a photograph of a Ruby Hill custom home with three ornate glass front doors.



Figure 16, Three Glass Front Doors.

Staff Recommendation.

Allow the front entrance doors to remain as installed.

Grading encroachments and drainage issues at neighboring properties.

As stated by the RHADC, the grading conducted by the applicants for their residence encroached upon the adjoining properties on the north side (downslope property at 3725 West Ruby Hill Drive) and the south side (upslope property at 3749 West Ruby Hill Drive) of the applicants' property, and graded (and planted) over the City's 15-foot wide water line easement to the nearby water tank on the north side of the applicants' property.

The 15-foot wide easement area was shown as natural grade on the applicants' grading plan and was shown to be planted with trees, shrubs, grape vines on the applicants' landscape plan. According to the City Engineer, an encroachment permit is not required to allow the applicants to grade and landscape over the City's water line easement, but that they do so at their own risk – the City can grade the easement and remove the landscaping at any time to perform maintenance and repair work on the water line without having to replant the area.

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Darryl Alexander, Surveyor, prepared the grading and drainage plan for the applicants' home and for the adjacent property located at 3749 West Ruby Hill Drive (Pritpal Singh Deol). As stated in Mr. Alexander's declaration,²³ the site as now graded does not comply with the grading plan for the applicants' site and that landscape irrigation water and storm water "sheds" from the adjoining Deol property onto the applicants' site due to the removal of a 6-inch to 12-inch tall berm²⁴ that was previously constructed on the Deol property. This berm is intended to keep the storm water and landscape water runoff on the Deol property and away from the applicants' property. Mr. Deol has stated verbally and in writing (attached) to staff and to the RHADC that the applicants' grading encroached onto his site eliminating the berm. (Staff has not received any grading comments from the owners of 3725 West Ruby Hill Drive.)

Figure 17, below, is a photo²⁵ of the common property line between two properties at 3720 West Ruby Hill Drive (constructed) and 3732 West Ruby Hill Drive (vacant) showing the berm (indicated by the red circle).



Figure 17, Berm Separating 3720 West Ruby Hill Drive and 3732 West Ruby Hill Drive.

²³ Exhibit G, pp. 2-3.

²⁴ Stated to staff by Daryl Alexander.

²⁵ Staff brightened this photo by +10% for clarity.

The applicants stated to staff that their site was graded correctly and in compliance with the approved plans; that there was no berm on their property or on the Deol property; and that their grading did not encroach onto the Deol property. The applicants produced an unsigned letter from Kier & Wright, which they believe substantiates their claim that the berm did not exist prior to site grading. Representatives of Kier & Wright, however, stated to staff that the letter is a draft and not signed and that it described the applicants' site as now graded. Staff notes that it has observed berms on custom home sites in the Ruby Hill Development.

Section IV(f), Grading²⁶, and Section IV(g), Drainage²⁶, of the RHADG state:

- “All grading reviews shall be subject to the jurisdiction of the Committee and shall be considered individually for each lot.”
- “Grading approval must be obtained from the (Architectural Design) Committee before earth is moved. Building pad grades may be altered only with the approval of the Committee. Grading shall be limited to the building envelope.”
- “If alterations to pad grade elevation are determined to impact adjacent lots and causes improvements such as retaining walls, drainage modifications, etc., builder or owner of subject property shall bear the cost of those improvements or modifications caused by grade elevations.”
- “Site and drainage plans will be closely studied to ensure that proper area drain systems and/or diversion routes are designed to prevent runoff into sensitive areas or other home sites.”

Staff concurs with the RHADC on this issue. Building sites must be graded so that storm and landscape runoff water is contained entirely on the building site and directed towards the City's storm drain system. Grading may not encroach or overlap onto adjacent properties, nor can runoff water drain to/from adjoining properties and the applicants' site despite the pre-existing drainage pattern prior to construction.

Staff Recommendation

The applicants are required to retain a qualified Civil Engineer to identify all corrective measures necessary to ensure that proper drainage systems are designed and installed on the applicants' property to prevent runoff to/from adjacent sites. Although the applicants can retain the landscape and vineyard planting and any irrigation lines within the City's water line easement, without review and approval by the City, they do so at their own risk – the City and its contractors can access the easement area unimpeded and work on the underground pipe without having to replace the vines and irrigation lines located in the easement.

²⁶ Exhibit C, p. 22.

Rear yard gazebo.

A building pad for the rear yard gazebo is shown on the grading plan submitted with building permit plans, located towards the rear (west) property line of the site. Elevations and other design details of the gazebo, however, were not included with the building permit plans. A design plan for a 15-foot tall gazebo with five columns and a domed roof was submitted to the RHADC for review with the landscape plans, but was not approved by the RHADC nor did it receive a building permit. The applicants proposed a revised gazebo design with an ornate wrought iron roof matching the appearance of the iron work on the applicants' front doors and garage doors. The applicants proceeded with constructing the gazebo without RHADC approval and without approval of applications for Administrative Design Review or a building permit, completed the concrete pad and foundation and constructed the columns supporting the gazebo, and then stopped construction.

Figure 18, below, is a photo of the partially constructed gazebo. (The columns supporting the gazebo match the columns (without the capitals) on the applicants' home as constructed. Figure 19, below, is photo of a gazebo provided by the applicants to the RHADC to show the cover they intend to install.



Figure 18, Partially Constructed Gazebo



Figure 19, Proposed Gazebo Cover

Section IV(j), Accessory Structures²⁷, and Section VII(j), Trellis, Arbors and Gazebos, Shade Structures, and Play Structures²⁸, of the Ruby Hill Architectural Design Guidelines state:

²⁷ Exhibit C, p. 19.

²⁸ Exhibit C, p. 33.

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- “Arbors, trellises, gazebos and related shade structures that are open on all sides are considered separately from accessory structures.”
- “The maximum height for an accessory structure is fifteen feet (15’) measured from finished grade to the uppermost edge. Any accessory structure over ten feet (10’) in height will require a variance from the Architectural Review Committee and Administrative Design Review from the City of Pleasanton.”
- “The design of accessory structures must be compatible with the architecture of the home including material and color selections.”

Staff notes that the 10-foot maximum height stated in the RHADG for a gazebo is incorrect; 15 feet is the correct maximum height. The RHADC commented that the gazebo columns should match the design of the columns and capitals that the RHADC approved for the residence; that the proposed iron work for the dome is too ornate and would be inconsistent with the architectural style of the home; and that the gazebo’s height must conform to the 15-foot height limit for an accessory structure. The applicants stated to staff that they would complete the gazebo following the City’s direction.

As constructed, the columns supporting the gazebo match the columns (without the capitals) on the applicants’ home. Staff concurs with the RHADC that the roof of the gazebo should match the materials and colors of the applicants’ home, which is the typical design standard for accessory structures.

Staff Recommendation.

Allow the columns to remain as installed. The gazebo shall be a maximum height of 15 feet, measured from the building pad to its tallest point, shall match the colors and roof materials of the residence, and shall be reviewed and approved by the RHADC and then, as required by the RHADG, submitted to the Planning Division for review under a separate application for Administrative Design Review.

Replace the capitals on top of the building columns.

The RHADC approved a Tuscan style capital on the building’s columns. The applicant installed capitals that the RHADC considers to be too ornate and, therefore, not consistent the Monterey/Spanish Eclectic style of the RHADG.

Figure 20, below, is a copy of the typical column/capital detail from the building permit plans for the applicants' home, and Figure 21, below, is a photo of the capital installed on the columns of the applicants' home. The capitals are indicated by the red squares on both figures.

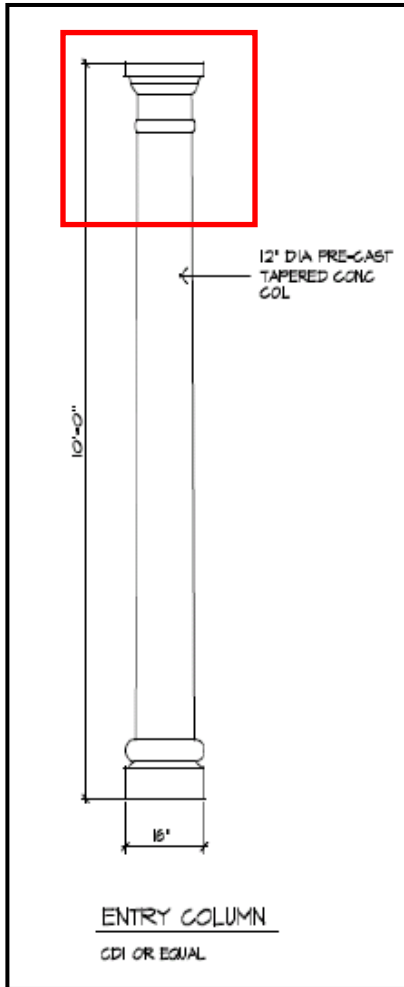


Figure 20, Column/Capital Detail on Building Permit Plans



Figure 21, Installed Column/Capital on Applicants' Home

The RHADC's position is that the capitals be replaced with the simpler-style capitals shown on the building permit plans. The applicants prefer to keep the capitals as installed as being consistent with the design concept and because they believe that there is precedent in the Ruby Hill Development.

Staff concurs with the applicants on this issue. The capitals installed on Ruby Hill homes vary from simple to ornate in appearance. While the capitals on the applicants' home are ornate in their appearance, staff considers them acceptable as there are no design guidelines that prohibit them.

Staff Recommendation.
Allow the capitals to remain as installed.

V. PUBLIC COMMENT

Public notices were sent to property owners within a 1,000-foot radius of the applicants' property. At the time that the staff report was written, staff has a letter from the adjacent property owner at 3749 West Ruby Hill Drive on the grading issues with the applicants previously discussed in the staff report. Staff has also received letters, emailed communications, and a petition (Exhibit O) from property owners within the Ruby Hill Development stating their position and concerns on the applicants' home. A summary of the neighborhood comments follow:

- The Ruby Hill Board is biased on matters concerning the applicants. What constitutes substantial conformance to the RHADG has not been defined to Ruby Hill owners. The petition submitted to the City was signed by a minority number of Ruby Hill owners and the use of community funds for legal counsel is inappropriate.
- Concern about the applicants' lack of adherence to the architectural standards established by the RHADC, the integrity of the review process that has served the Ruby Hill community, and that the City is even considering circumventing the Ruby Hill RHADC and approving occupancy of a residence that was not constructed in accordance with the specific plans previously approved by the RHADC.
- Any action taken by the City (should) include the delegation of responsibility and authority for architectural design within the Ruby Hill Development to the RHADC.
- The applicants need to comply with the CC&R's and the RHADG and this matter should be handled by the RHOA Board.
- The City should back the RHADC and RHOA and find the applicants have not built their home in compliance with the approved plans including the RHADC's interpretation of the guidelines as they have applied to 833 home, and rule that all non-compliance issues identified by the RHOA and RHADC be rectified by the applicants before a permanent occupancy permit is issued.
- The RHOA and the RHADC have the responsibility and authority to interpret the RHADG as it has done successfully for the best interest of the community as a whole.
- If the City does not rule in favor of the RHADC and the RHOA, its action will invite continued mediation for approval from the City for any home builder or existing home owner that wants to do renovations that requires RHOA and the RHADC approval and doesn't receive it from the RHADC.
- This is not a casual issue. The lack of respect for the Ruby Hill community and the violation of the Ruby Hill CC&R's posed by this bypass attempt are of huge concern. The CC&R's are a legally binding agreement between 833 residents and

- the community, and has worked for 20 years. The home does not meet the allowable design standards and should be modified to conform to the exterior guidelines outlined in the RHADG just as everyone else has.
- In favor of all residents following the rules of the RHOA, which all agreed to and signed; the applicants must follow the same rules. They cannot excuse themselves from following the rules that every other resident follows.
- Every other Ruby Hill home owner has worked with and through the RHADC to comply with the expected design and the applicants should be made to do so as well.

Staff will forward to the Planning Commission any additional public comments as they are received.

VI. ENVIRONMENTAL ASSESSMENT

The proposal is categorically exempt from the California Environmental Quality ACT (CEQA) under Class 3 Categorical Exemption, Section 15303(a), New Construction or Conversion of Small Structures, of the CEQA Guidelines. The Class 3 exemption covers the construction or conversion of up to three single-family residences in an urbanized area. Therefore, no new environmental document accompanies this staff report.

VII. PLANNING COMMISSION OPTIONS

The Planning Commission has the following options in its action on the applicants' request for design review approval of their home:

1. Option One (Staff Recommendation):
Find the applicants' home as conditioned conforms to the RHADG and require the applicants' to correct their home according to the staff recommendations.

Under this option the applicants would be required to comply with the RHADG by repainting their home to a muted color approved by the RHADC; using Garage 1 as a garage as approved by the RHADC and shown on the building permit plans; replacing the glass garage doors on Garage 1 with solid garage doors approved by the RHADC; inspecting and then correcting the grading of their site as required by the City Engineer to prevent landscape and storm water runoff to/from adjacent properties; and finishing the gazebo in compliance with the RHADG subject to the review and approval of the RHADC and the City. The applicants would keep the pilasters and lamps flanking the entrance to the auto court as constructed; would keep the three front doors as installed; and would keep the capitals installed on top of the building's columns.

Having the RHADC conduct final review of the building colors, garage door design, and the gazebo design preserves the RHADC's design authority of custom home designs including the additions and changes to these homes. Having the City

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Engineer review the site grading and identifying corrective measures provides the technical review in compliance with the City's grading standards. Supporting the pilasters and lamps, three front doors, and the capitals on the building columns as installed reflects the previous approvals of the RHADC and, therefore, is considered by staff to be in compliance with the RHADG.

2. Option Two:

Find the applicants' home as conditioned does not conform to the RHADG and require the applicants' to correct their home in compliance with the RHADG as administered by the RHADC.

Under this option the applicants would be required to comply with the RHADG by repainting their home to a muted color; using Garage 1 as a garage and replacing the glass garage doors with solid garage doors; finishing the gazebo in compliance with the RHADG, lowering the height of the pilasters flanking the entrance to the auto court and removing the lamps; replacing the three front doors with doors of a less ornate design; and replacing the capitals with capitals of a less ornate design. Site grading would be inspected and corrected as required by the City Engineer. Compared to Option One, Option Two would also require the applicants to lower the height of the pilasters flanking the entrance to the auto court and remove the lamps that were installed on top of the pilasters; replace the three front doors with doors of a less ornate design; and replace the capitals on the building columns with capitals of a less ornate design.

The Option Two corrections to the building and possible site grading would involve greater expense to the applicants but would ensure compliance with all the corrections previously required by the RHADC. Staff does not recommend this option given the examples of these items in the Ruby Hill development. Having the City Engineer review the site grading and identifying corrective measures provides the technical review in compliance with the City's grading standards.

3. Option Three:

Find the applicants' home as constructed conforms to the RHADG.

Under this option, the Planning Commission would approve the applicants' home as constructed without making any of the changes required by the RHADC for correction and recommended by staff to bring the building into compliance with the RHADG. The City would return the applicants' cash deposit and would issue the Final Certificate of Occupancy.

Staff does not recommend this option as it would supersede the design authority of the RHADC, and would be precedent setting in that an owner dissatisfied with an action of the RHADC would then submit a design review application to the City.

VIII. CONCLUSION

It is unfortunate that the applicants have chosen to construct portions of their home differently than approved by the Ruby Hill Architectural Design Committee. The staff recommendations are based on our interpretation of the Ruby Hill Architectural Design Guidelines. However, we have also considered that flexibility and interpretations of the Ruby Hill Architectural Design Guidelines have been made in the review of other Ruby Hill custom homes sufficient to support the staff recommendations.

The staff recommendation brings the applicants' home closer into compliance with the RHADG. As allowed by the RHADG, our recommendation accommodates some but not all of the applicants' preferences for their home – in effect, some architectural elements of the Andalusia region of southern Spain while ensuring the overall appearance of their home is predominantly Monterey/Spanish Eclectic as described in the RHADG.

It should be noted that the circumstances that led the City to review this application are considered highly unusual. This process is not intended to be precedent setting. It is not the City's intention to intervene into the well-established design process set in place as part of the Ruby Hill project approved on June 6, 1991. City staff continues to direct new and existing Ruby Hill residents to contact the Ruby Hill Architectural Design Committee regarding the design of their custom homes and any modifications to the design of their homes.

IX. STAFF RECOMMENDATION

Staff recommends the Planning Commission find the house to be in conformance to the Ruby Hill Architectural Design Guidelines, as conditioned in Exhibit A.

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