



Planning Commission Staff Report

May 27, 2015
Item 6.a.

- SUBJECT:** P15-0037
- APPELANTS:** Jamison and Elizabeth Cummings
- APPLICANTS/PROPERTY OWNERS:** Kursad and Zarina Kiziloglu
- PURPOSE:** Appeal of the Zoning Administrator's approval of an application for Administrative Design Review 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.
- LOCATION:** 5196 Hummingbird Road
- GENERAL PLAN:** Medium Density Residential
- ZONING:** R-1-6,500 (One-Family Residential) District
- EXHIBITS:**
- A. [Zoning Administrator Approval Letter and Conditions of Approval dated "March 10, 2015"](#)
 - B. [Approved Project Plans dated "Received January 26, 2015"](#)
 - C. [Email from Jamison and Elizabeth Cummings expressing concerns with the project and requesting to review the project plans dated February 3, 2015](#)
 - D. [Email from staff to the applicants and appellants regarding the Zoning Administrator determination and email from the appellants to staff regarding the Zoning Administrator determination dated March 13 and 16, 2015](#)
 - E. [Zoning Administrator Meeting Minutes with neighborhood petition presented by Jamison and Elizabeth Cummings – March 10, 2015](#)
 - F. [Appeal from Jamison and Elizabeth Cummings dated "Received March 24, 2015"](#)
 - G. [Location and Notification Map](#)

BACKGROUND

On January 26, 2015, the applicants submitted an Administrative Design Review (ADR) application 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. After the ADR public notice was sent, Jamison and Elizabeth Cummings (5204 Hummingbird Road) contacted staff and indicated that they had concerns regarding the subject proposal and the potential impacts to their home (Exhibit C). A primary concern expressed by the Cummings was that the second-floor balcony would enable views into their bedroom and backyard/swimming pool area. Staff asked the Cummings whether a new vegetative screen in combination with the existing on-site tree/foliage would satisfy their privacy concerns. The Cummings initially indicated they would reluctantly entertain this suggestion, but preferred the second-floor balcony to be removed completely from the project scope. Subsequently, the Cummings requested a Zoning Administrator Hearing to discuss the issue and potential solutions further with staff and the applicants.

On March 10, 2015, a Zoning Administrator hearing was held on the subject proposal. The hearing was attended by Jamison Cummings and the property owner Zarina Kiziloglu (please refer to Exhibit E for meeting minutes). At the hearing, the Zoning Administrator asked Mr. Cummings whether a new vegetative screen, a reduction in the width and depth of the second-floor balcony, and/or increasing the height of the western balcony wall would adequately address the view concerns. Mr. Cummings generally rejected those options as presented, expressing concerns that a vegetative screen would deposit organic matter in his yard and would not function effectively at blocking views, among other issues. Mr. Cummings preferred that the proposed second-floor balcony be removed completely from the scope of work. After discussion with all parties and review of the proposed plans in the context of the project site and surrounding neighborhood, the Zoning Administrator approved the project, including a requirement that trees be planted to create a vegetative screen between the subject parcel and the Cummings parcel to block views from the balcony to the pool. Because the Zoning Administrator believed that reasonable mitigation was required of the project to address privacy concerns, the application was approved with conditions as shown in the Zoning Administrator's Approval Letter dated "March 10, 2015" within Exhibit A.

Between March 10 and March 23, 2015, staff worked with the applicants and the Cummings to craft mitigation that would be acceptable to both parties. This task included identifying a species of tree for the vegetative screen that would not drop a substantial amount of organic material or have invasive root systems so as to not negatively affect the Cummings swimming pool or irrigation system, evaluating potential alternative locations within the applicants' yard to plant a single larger tree, such as a camphor tree, as opposed to several trees along the fenceline to accomplish a vegetative screen, and adding a restrictive covenant giving the Cummings the exclusive right to enforce maintenance of the vegetative screen and fence, based on parameters established by staff. These measures/conditions were all rejected by the Cummings.

The Cummings filed an appeal of the Zoning Administrator’s approval on March 24, 2015, stating objections to the subject proposal. Specifically, their concerns encompassed issues of privacy; skepticism that the trees would create an effective screen; maintenance concerns; and allergies created by the installation of new trees. Accordingly, the appeal is now before the Planning Commission for review and action. Please refer to Exhibit F for a copy of the appeal.

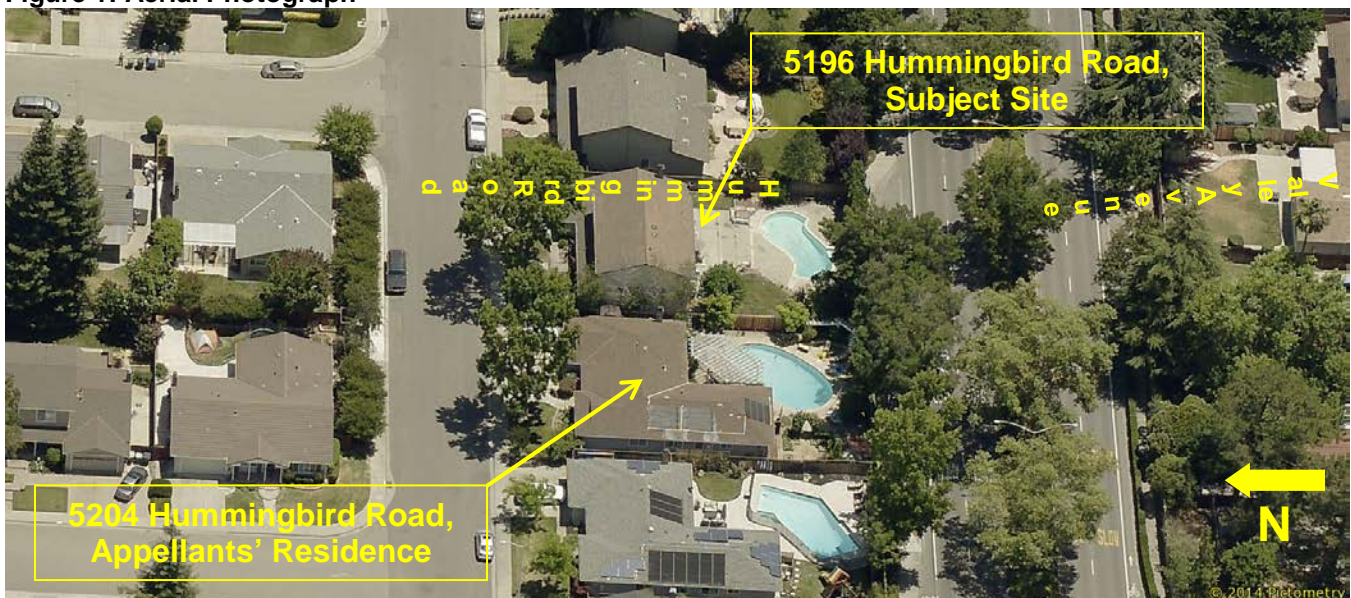
SITE AND AREA DESCRIPTION

The subject site is located north of Valley Avenue, east of Crestline Road and west of Greenwood Road. The approximately 0.20-acre lot has an approximately 2,538 square-foot two-story residence and an attached two-car garage. The architecture of the home is characterized by cement plaster walls, wood trim, and a composition shingle roof. Access to the home is provided by a driveway off Hummingbird Road.

The subject site is surrounded by residential uses to the north, east and west and Valley Avenue to the south.

Figure 1, below, is the 2014 aerial photograph/location map of the site and the surrounding area.

Figure 1: Aerial Photograph



PROPOSED PROJECT

The applicants propose 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 (four on the front and one on the rear of the residence that are intended to provide light into the attic area) on the second-floor roof; (4) install a new roof over the front porch raising the roofline above the porch from approximately nine feet to ten feet, three inches; and (5) install eight new windows and two doors on the

second floor, as well as replace and/or reconfigure a majority of the other existing windows on the residence. No windows would be added to the west side of the residence. The new square footage includes a kitchen expansion and a master bedroom expansion. There would be no change to the current front or side yard setbacks as a result of the subject proposal; however, the rear yard setback would be reduced from 59 feet, eight inches to 51 feet, nine inches. The height of the existing residence would remain at 23 feet, 10 inches (measured from the property grade to the ridge of the roof). The new square footage (855 sq. ft.) would result in a 38.7% floor area ratio (FAR) on the approximately 8,760 square-foot lot.¹ No changes are proposed to the garage or the existing driveway off Hummingbird Road. The subject proposal would match the exterior colors and materials of the existing dwelling by incorporating the following materials: sand-colored cement plaster, wood trim, and a composition shingle roof.

ANALYSIS

The ADR process is intended to preserve and enhance the City’s aesthetic values and to ensure the preservation of the public health, safety, and general welfare. Additions exceeding ten feet in height are required to obtain ADR approval. ADR applications are typically reviewed at the Zoning Administrator level. The subject proposal was heard and approved by the Zoning Administrator and has now been appealed to the Planning Commission. The Planning Commission is empowered to deny the appeal (approving the project as originally proposed and conditioned), approve the project with modified conditions including changes to the project, to reflect the direction of the Commission, or uphold the appeal (therefore denying the project).

Site Development Standards

The subject property is zoned R-1-6,500 (One-Family Residential) District. Additions to existing single-family residences are permitted in this district provided the development standards prescribed by the Pleasanton Municipal Code (PMC) are met. A summary of the prescribed development standards for an addition in this district and a comparison of the subject proposal to those standards is provided below:

	Required	Existing	Proposed
Setbacks			
<i>Front</i>	23 feet minimum	23 feet, 6 inches	23 feet, 6 inches
<i>Rear</i>	20 feet minimum	59 feet, 8 inches	51 feet, 9 inches
<i>Side</i>	5 feet one side/12 feet combined both sides minimum	5 feet one side/16 feet combined both sides	5 feet one side/16 feet combined both sides
FAR	40% maximum	29.0%	38.7%
Height	30 feet maximum ²	19 feet, 6 inches (code height); 23 feet, 10 inches (grade to peak)	19 feet, 6 inches (code height); 23 feet, 10 inches (grade to peak)

¹ The Floor Area Ratio is calculated using the sum of the gross horizontal area of the buildings on a site excluding: basement or cellar areas used only for storage; space used for off-street parking or loading; and steps, patios, decks, terraces, porches, and exterior balconies, if not enclosed on more than three sides.

²The height of a structure is measured vertically from the average elevation of the natural grade of the ground covered by the structure to the highest point of the structure or to the coping of a flat roof, to the deck line of a mansard roof, or to the mean height between eaves and ridges for a hip, gable, or gambrel roof.

As proposed and conditioned, the addition complies with the above development standards prescribed by the PMC.

Scope of Design Review – Criteria

Chapter 18.20 (Design Review) of the PMC indicates that in order to preserve and enhance the City's aesthetic values and to ensure the preservation of the public health, safety, and general welfare, additions to single-family residences greater than ten feet in height are subject to administrative design review. Staff notes that even though an addition may comply with the development standards of the applicable zoning district, through the design review process the PMC allows the reviewing body to approve conditions that may be more restrictive than the normal PMC standards to ensure that the public health, safety, or general welfare is preserved. As outlined in the Design Review Chapter, the Zoning Administrator's or Planning Commission's scope of review of project plans shall include design criteria including:

- Preservation of the natural beauty of the city and the project site's relationship to it.
- Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of the buildings within its site and adjoining buildings.
- Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character.
- Preservation of views enjoyed by residents, workers within the City, and passerby through the community.
- Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another and the building's colors and materials.

Staff considers these design criteria in its review of all design review applications. The proposed addition would match the architectural style, colors, and materials of the existing residence. Additionally, new trees were conditioned along the western property line to provide a vegetative screen that would block views from the proposed second-floor balcony to the appellants' back yard. The tree species were selected to be fast-growing, to avoid the deposition of large amounts of organic matter, and to create a continuous vegetative screen. Staff believes that the design of the addition would be complementary to the design of the existing residence and would not adversely affect the other homes in the neighborhood.

Appellant Concerns

As noted above, at the March 10, 2015 Zoning Administrator Hearing, Jamison Cummings, who resides at the adjacent residence to the west (5204 Hummingbird Road), expressed concerns that the proposed second-floor balcony would allow for views into his bedroom windows and backyard/swimming pool area. Subsequent to the filing of the appeal on March 24, 2015, staff met with the appellants at their property and further concerns were expressed related to the planting of trees along the fenceline and how those trees and their associated

root systems would potentially affect the appellants' sprinkler lines, pool deck, and pool cleanliness. The appellants also indicated that the existing mulberry tree at the southwest corner of the subject residence is a deciduous species (losing its leaves in the Fall) and thus would not provide effective screening between the appellants' bedroom windows and backyard/swimming pool area from the proposed second-floor balcony.

The appellants stated that elimination of the proposed second-floor balcony would be the sole means of gaining their support for the remainder of the proposed project.

Privacy Concerns

The appellants' primary concerns about the project relate to privacy. The R-1-6,500 Zoning District, in which the subject and appellants' parcels are both located, is considered a medium density, small lot district. Thus complete privacy is difficult to achieve. This is illustrated in the prescribed development standards detailed above, which include a five-foot side yard setback on one side and a 20-foot rear yard setback, to which the subject proposal, including the second-floor balcony, is compliant. Staff is sensitive to the appellants' privacy concerns related to the proposed second-floor balcony. However, as can be seen in the photos below (Figures 2 and 3), which were taken from two of the existing second-floor bedrooms on the subject parcel, there is already a partially obscured view into the appellants' backyard area due to the existing mulberry tree on the subject parcel and Bay tree in the appellants' yard. However, when the existing mulberry tree has full foliage, staff believes there would be little to no view into the appellant's yard from the same vantage points.

Figure 2: View into appellants' yard from an existing upstairs bedroom on the subject parcel

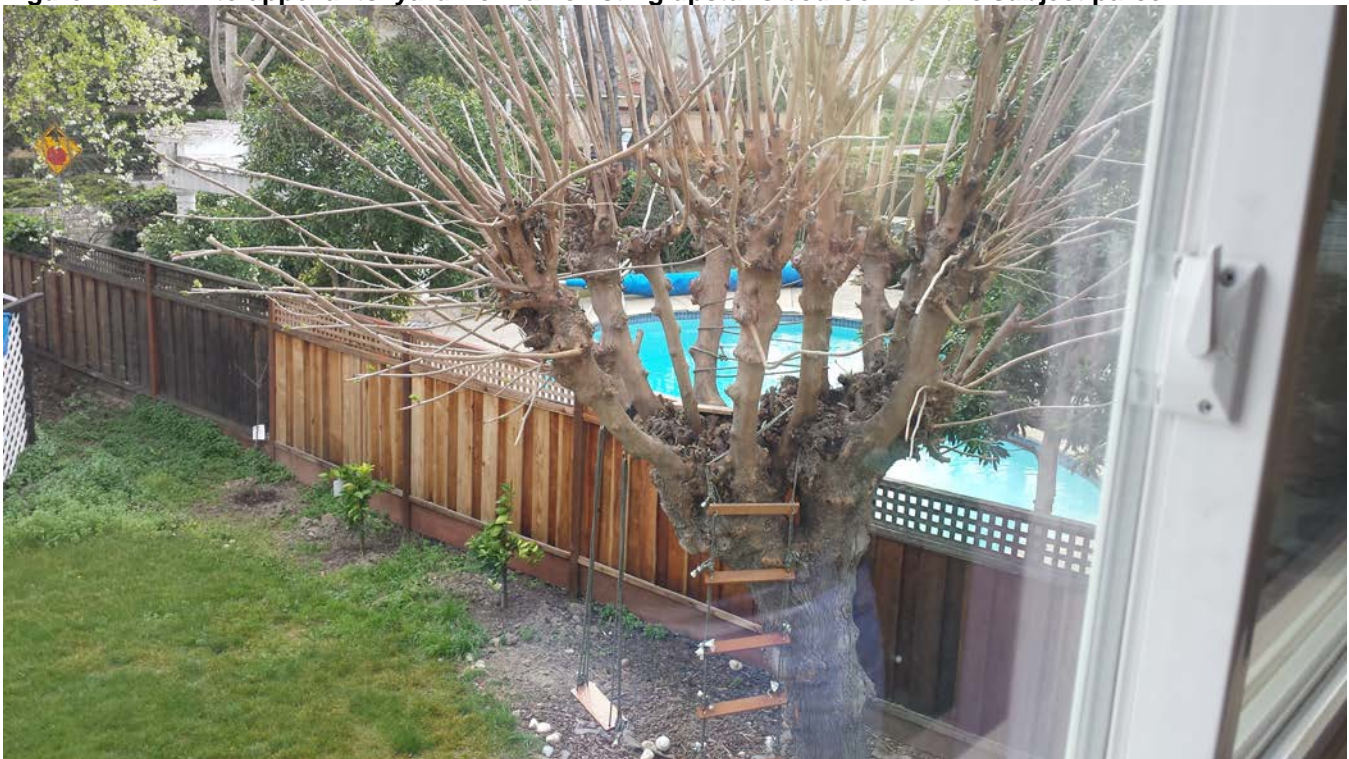


Figure 3: View into appellants' yard from an existing upstairs bedroom on the subject parcel

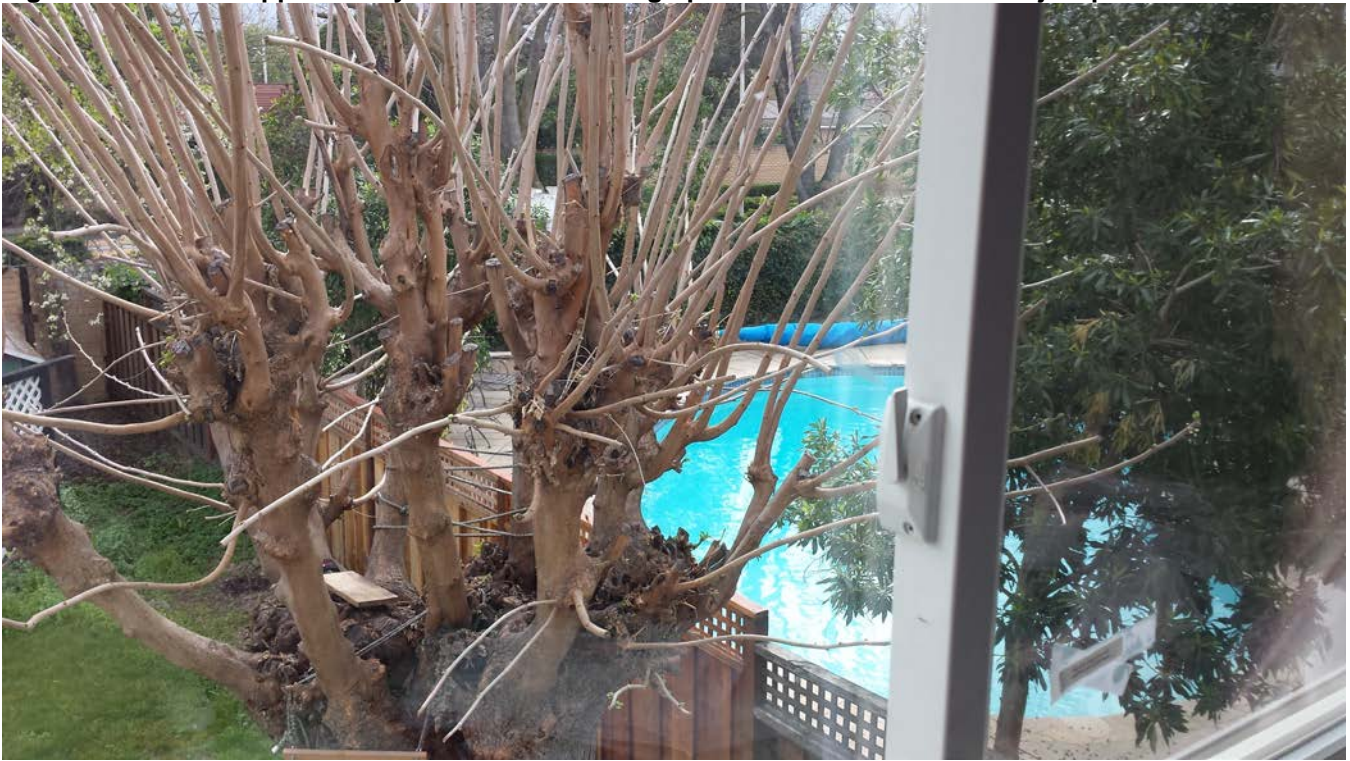


Figure 4: Birds eye view of the subject site and the existing Mulberry tree with full foliage



As seen in Figure 5 below, the proposed second-floor balcony is proposed in an area roughly parallel to the existing mulberry tree (projecting approximately nine-and-one-half-feet into the rear yard from the existing second-story wall of the residence), meaning any direct lines of sight toward the appellants' bedroom windows would most likely be fully screened when the tree has full foliage and partially screened when the tree doesn't have its leaves. It should also be noted that the appellants' bay tree and freestanding pergola would further serve to screen views to the bedroom from the proposed second-floor balcony. However, the proposed

second-floor balcony could have limited lines of sight toward the southern portion of the appellants' swimming pool area. As a result and as also shown in Figure 5 below, the Zoning Administrator required the planting of four new Thuja Emerald Green trees, minimum 24-inch box size, along the fenceline between the subject and appellants' parcels to mitigate privacy issues expressed by the appellants. At 24-inch box size, the trees will already be seven to eight feet tall at the time of planting and will grow between two to three feet in height annually. By comparison, the existing good neighbor fence between the two parcels is approximately six and one-half feet tall. Any direct lines of sight toward the appellants' swimming pool area would be fully screened once the conditioned vegetative screen is in place for approximately one to two years. The Zoning Administrator and staff believe that the existing mulberry tree and the installation of the four new trees is a reasonable solution to adequately address privacy impacts created as a result of the proposed second-floor balcony.

Figure 5: Balcony location and proposed new tree locations



New Trees

Concerns have been raised by the appellants related to the planting of trees along the fenceline, including that the trees and their associated root systems could affect the appellants' sprinkler lines, pool deck, and pool cleanliness. The prescribed Thuja Emerald Green trees seen in Figure 6, below, are similar to Italian Cypress trees, in that they can be planted in a tight formation and in close proximity to structures (like fences). In this instance, the trees would be planted approximately three to four feet from the fenceline and spaced three to four feet apart from one another with the intent of providing a solid vegetative screen obstructing views to the appellants' swimming pool area and bedroom windows from the proposed second-floor balcony. Staff has conferred with the City arborist, which has confirmed that this

species, at the proposed spacing and density, will result in an adequate vegetative screen to obstruct views from the proposed second-floor balcony. Furthermore, the City arborist confirmed that this evergreen species does not drop large amounts of foliage on an annual basis and does not have an invasive root system. In addition, given the distance between the trees and the fenceline, there is minimal risk of damage to the fence and the appellants' sprinkler lines and pool deck. Based on this information, the Zoning Administrator and staff believe that the installation of these four new trees is a reasonable solution to adequately address privacy impacts created as a result of the proposed second-floor balcony.

Figure 6: Example of a vegetative screen provided by Thuja Emerald Green trees



Other Mitigations

As discussed above, staff believes the planting of additional trees is a reasonable solution to adequately address privacy impacts created as a result of the proposed second-floor balcony. However, staff also considered other possible design options/mitigation measures, as described below:

- Removing the balcony from the scope of work.

The appellants were supportive of this option at the Zoning Administrator Hearing; however, the applicants were unwilling to remove the balcony. Ultimately, the Zoning Administrator rejected this option as the proposed second-floor balcony met all the prescribed development standards of the underlying zoning district and the conditioned

vegetative screen was a reasonable response to the appellants' concerns related to privacy.

- Reducing the depth and/or width of the proposed second-floor balcony.

The appellants felt this option did not adequately address their privacy concerns. The applicants were also reluctant to consider this option, stating they carefully selected the location and design of the proposed second-floor balcony to be sensitive to neighbor privacy concerns and that reducing the depth and/or width severely limited their ability to use the balcony. Ultimately, the Zoning Administrator rejected this option as neither side supported it.

- Adding a six-foot solid wall or lattice wall to the west side of the proposed second-floor balcony.

This option was not explored in great detail at the Zoning Administrator hearing. While staff believes it has some merit in terms of providing additional privacy screening for the appellants and could be successfully integrated into the architectural changes for the subject home, neither the applicants nor the appellants voiced support for this option. Ultimately, the Zoning Administrator rejected this option in favor of the vegetative screen.

PUBLIC NOTICE

During the initial ADR public notification, only the neighbors that are in close proximity to the site were informed of the application, as stipulated by the PMC. However, because this application has been appealed to the Planning Commission, public hearing notices were mailed to all property owners within 1,000 feet of the subject site prior to the Planning Commission hearing. At the time this report was published, no additional letters in opposition or support of the project were received. The location and noticing maps are included as Exhibit G.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt (Section 15301 (e), Class 1, Existing Facilities) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

CONCLUSION

As approved and conditioned, the proposed project complies with the PMC and new trees would be installed to help mitigate view impacts to the appellants at 5204 Hummingbird Road. The project has been designed to be compatible with the existing home and neighborhood and would meet all applicable site development standards, including setbacks, FAR, and height. However, should the Commission find that the project should be modified, the Commission may approve it with modified conditions to reflect its direction.

STAFF RECOMMENDATION

Staff recommends the Planning Commission deny the appeal and uphold the Zoning Administrator's approval of case P15-0037.

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