

Planning Commission Staff Report

February 9, 2011
Item 6.e.

- SUBJECT:** PAP-151 (Appeal of PADR-2138)
- APPELLANTS:** Kong Susanto and Catharine Pranoto
- APPLICANTS/
PROPERTY OWNERS:** Frederic and Yiping Leroudier
- PURPOSE:** Appeal of the Zoning Administrator's approval of an Administrative Design Review to install a second-story window on the right (south side) elevation of the existing residence.
- LOCATION:** 5252 Meadowwood Court
- GENERAL PLAN:** Medium Density Residential – 2 to 8 dwelling units per gross acre
- ZONING:** R-1-6,500 (One-Family Residential) District
- EXHIBITS:**
- A. Draft Conditions of Approval
 - B. Elevation Drawing and Site Plan dated “Received January 12, 2011”
 - C. Zoning Administrator Approved Elevation Drawing dated “Approved December 22, 2010”
 - D. Letter from Barry Winston, O.D.
 - E. Letter from Craig Pearson
 - F. Building and Safety Division Permit Card
 - G. Zoning Administrator Meeting Minute Excerpts
 - H. Appeal Letter dated “Received January 6, 2011”
 - I. Egress Window Requirements
 - J. Location and Noticing Maps

BACKGROUND

The applicants, Frederic and Yiping Leroudier, had extensive water damage along the right (south) second floor elevation of their home which required replacing the wall. The Leroudiers decided to take this opportunity to install an additional second-story window within the bedroom since the south wall would be replaced. The Leroudiers approached their neighbors who would be most impacted by the new window to ensure that any concerns would be

addressed prior to submitting a formal application to the City. The neighbors reviewed and signed the proposed elevation drawing acknowledging that they did not have issues with the proposed window (please refer to Exhibit C). Knowing that the neighbors were not concerned with their proposal, Mrs. Leroudier submitted an application for Administrative Design Review to install a new second-story window on the south elevation of their home.

Prior to public notification cards being sent to adjacent property owners of the Administrative Design Review application, staff was contacted by Catherine Pranoto, the Leroudiers' immediate south side neighbor, stating her retraction of support for the proposed window. Mrs. Pranoto acknowledged that she initially did not have concerns with the Leroudiers' request, however, she now felt that the window would create privacy concerns as the window would have a direct line of sight into her living room and kitchen, her family's primary "activity" areas.

Staff asked if Mrs. Pranoto could support the window if landscape screening, opaque glass, and/or a higher window sill were required. Mrs. Pranoto was not agreeable to opaque glass because she believed the window could be replaced in the future and that even with opaque glass, the window could be opened, allowing someone to look into her windows. However, she was agreeable to having a higher window sill, so long as the sill height was 6-feet from the finished second floor. Mrs. Pranoto was not opposed to landscaping; however, she felt that it would not mitigate her privacy concerns.

Staff approached the Leroudiers with the possibility of providing landscaping, opaque glass, and/or a higher window sill. The Leroudiers were not agreeable to using opaque glass or a higher window sill because they wanted as much natural light as possible (please see Exhibit D). Furthermore, they were informed by their contractor that the proposed dimensions of the window could not be reduced in size (Exhibit E). The proposed window would be located within an existing second-floor bedroom that has two existing windows along the east elevation. However, the two existing windows do not meet current building code standards for ingress/egress. Staff confirmed with the Building Inspector that if the two existing windows do not meet egress requirements, any new window would be required to meet the minimum dimensions for egress within the bedroom (please refer to Exhibit F). The Building Inspector noted that the installation of a window is not required, but that if a window were installed it would be required to meet the minimum dimensions for egress because the other windows do not.

Since the window sill height could not be changed and neither party was interested in opaque glass or landscaping, a Zoning Administrator Hearing was scheduled.

ZONING ADMINISTRATOR HEARINGS

At a public hearing on December 21, 2010, staff presented the Administrative Design Review application to the Zoning Administrator, Janice Stern, and discussed the neighbors' privacy concerns and outlined the mitigation measures that were presented to both parties prior to the request of a Zoning Administrator hearing. The appellants restated their privacy concerns with the proposal and felt that since the room already had windows, the Leroudiers could use additional lamps/lighting fixtures if their intent was to have more light within the room. The

neighbors also suggested replacing the existing windows on the east elevation versus installing a new window on the south elevation. The neighbors felt that altering the existing windows would allow for more light as well as meeting the ingress/egress requirements. The neighbors were also agreeable to a condition that required opaque glass if the window were to be installed.

Mrs. Leroudier felt that when homeowners use opaque glass, it is for their privacy from neighbors and those neighbors should not ask someone to put in opaque glass for privacy. The Leroudiers felt that they were not asking for something that the houses on the Meadowwood Court didn't already have (i.e., second-floor windows on all elevations). The Leroudiers explained that a lot of the homes have second-floor windows along the side of the homes and that the appellants also have a second-story that has windows on each elevation and a second story deck on the rear.

The Zoning Administrator suggested installing a solar tube versus a new window; however, Mrs. Leroudier stated her objection to a solar tube because the morning light would prevent her daughter from sleeping due to the amount of light the tube would transmit. The Zoning Administrator stated her concerns regarding the privacy of the appellants back patio area and, therefore, continued the public hearing to the following day in order to visit both properties and better assess potential impacts.

At the second public hearing on December 22, 2010, Susan Spangler (5253 Meadowwood Court) attending the meeting at the Leroudiers' request and stated her support of the proposal. The Zoning Administrator discussed the outcome of the site visits and took closing comments from the Leroudiers and neighbors. The Zoning Administrator noted that there appears to be a limited amount of space between the two houses which does not allow for the opportunity to plant trees or increase the fence height to maintain privacy. Furthermore, she stated the difficulty in enforcing opaque glass because future homeowners wouldn't likely be aware of the condition and could install a non-opaque window in the future. The Zoning Administrator also noted that the neighbors, although the distance was greater, had windows and a second-floor deck that provided a direct line of sight to the Leroudiers' and adjacent properties. Therefore, the Zoning Administrator closed the public hearing and approved PADR-2138, thereby allowing the installation of the second-floor window on the south elevation. The Zoning Administrator meeting minute excerpts are included as Exhibit G for the Commission's consideration.

The appellants were not satisfied with the action taken by the Zoning Administrator and filed an appeal of that decision (please refer to Exhibit H for the appeal letter). The appeal is now before the Planning Commission for review and action.

SITE DESCRIPTION

The subject site is a residential lot in the Pleasanton Valley neighborhood; generally located north of Hopyard Road and west of Golden Road (please see Figure 1 on page 4). The lot is approximately 12,130 square-feet with a two-story residence and is situated adjacent to the bulb of the cul-de-sac of Meadowwood Court. The residence located north of the subject site

is a single-story home and the residence located south (the appellants' home) is a two-story home.

Figure 1: Aerial View



PROJECT DESCRIPTION

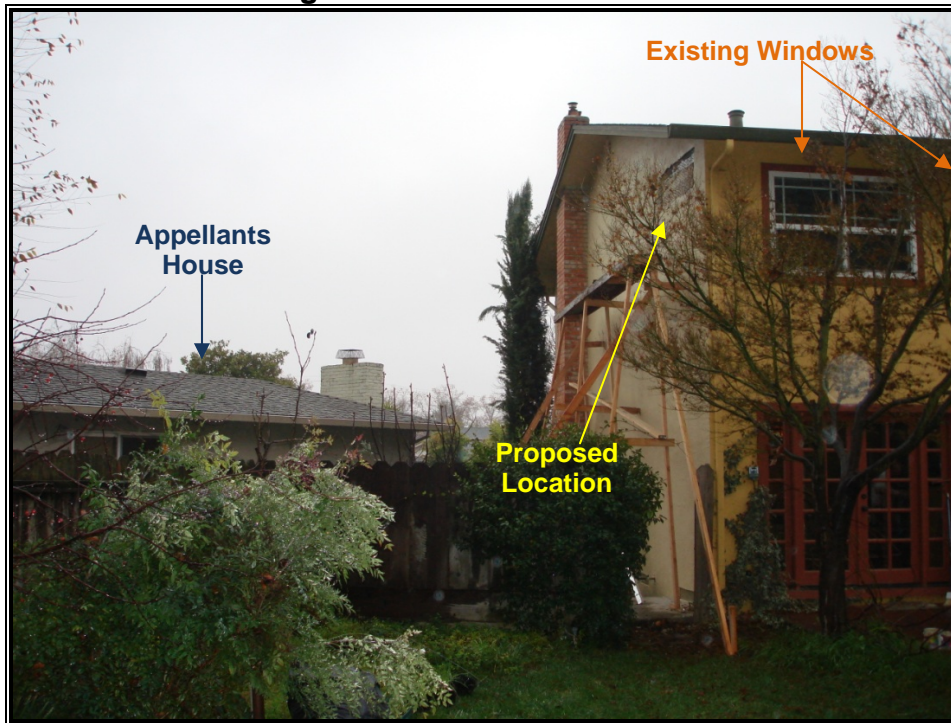
The Leroudiers are requesting to install a new second-floor window on the south elevation of their home. As proposed, the window would be located in an existing second-floor bedroom that has two existing windows on the east side of the room (please see Figure 2 on page 5). Although there are two existing windows within the bedroom, they do not meet current building code standards for egress. Installation of a new window is not required, however, should a new window be installed it would have to meet the minimum egress requirements. In order to meet the egress requirements, a window has to have a 5.7 square-foot openable area which requires a minimum 20-inch clear width, a minimum 24-inch clear height, and a maximum window sill height of 44-inches from the finished floor. Please refer to the Building and Safety Divisions *Egress Window Requirements* handout in Exhibit I. At the time of submittal of the Administrative Design Review application, the Leroudiers were requesting to install a 3-foot wide by 4-foot tall window, which does not meet the minimum openable area requirements (5.7 square-feet) for egress. As shown in Exhibit B, the Leroudiers have revised their elevation drawing to reflect a window that meets the egress requirements. Staff notes that the proposed window would be the only window on the south elevation of the house.

Please refer to the next page for Figure 3

Figure 3: Window locations



Figure 4: Window Locations



ANALYSIS

The neighbors feel that the proposed window is intrusive and would create a direct line of sight into their house and main backyard area. They feel that they have offered suggestions to the Leroudiers that would allow them to receive more light into the second-floor room that does not require installing a new window. These solutions included installing a solar tube, trimming the trees along the east elevation (please refer to Figure 4 on page 5), and installing additional lamps/lighting fixtures within the bedroom. The neighbors are no longer agreeable to opaque glass and have suggested that the Leroudiers enlarge the existing windows along the east elevation to allow for more light and to meet the egress requirements.

Should the Planning Commission approve the appeal, the neighbors have stated their willingness to pay 50%, or up to \$200, in order for the Leroudiers to install a larger window on the east elevation versus installing a new window on the south elevation. Should the Planning Commission deny the appeal request, thereby upholding the Zoning Administrator's approval, the neighbors' request that the Leroudiers install a minimum of four Italian Cypress trees, to grow at least 20-feet in height and planted as closely as possible, to provide privacy screening along the south elevation.

The City's Landscape Architect suggests that the Leroudiers plant three Leyland False Cypress trees for privacy screening. Leyland False Cypress is an upright, dense, evergreen tree that grows 10-12-feet wide and 15-20-feet in height within 5 years; unlike Italian Cypress, which is slow growing. The Leroudiers have existing Italian Cypress trees located in the front of the house (on the south side) and in the far rear (south side) of the property. Planting three Leyland False Cypress trees would be in keeping with the Leroudiers existing landscaping scheme. Staff has added a condition that requires the Leroudiers to install four Italian Cypress trees along the south elevation, adjacent to the proposed window, for privacy screening (Exhibit A, No. 2).

At the time this report was published, the Leroudiers were considering whether they would be willing to install trees. Staff is sensitive to the neighbors' privacy concerns and has offered suggestions that neither party collectively support.

PUBLIC NOTICE

Notice of the hearing for the appeal was sent to surrounding property owners and tenants within 1,000-feet of the site. At the time this report was published, staff had not received public comments. Staff has provided the location and noticing maps as Exhibit J for the Commissions reference.

ENVIRONMENTAL ASSESSMENT

A minor alteration to an existing structure that does not expand the use is categorically exempt (*Existing Facilities*) from the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

CONCLUSION

The installation of Leyland Italian Cypress along the southern property line, adjacent to the window, in staff's opinion, would lessen the privacy concerns between the two properties. Furthermore, the installation of a window on the south elevation would bring the bedroom to Building Code standards by installing a window that meets the ingress/egress requirements that currently do not exist within the room.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission deny the appeal (PAP-151) subject to the conditions of approval listed in Exhibit A.

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