

Summary of the Zoning Administrator's response to the concerns raised in the March 19, 2018 letter from Daniel Muller, Attorney representing Allen Trigueiro:

- A. Concern regarding obstruction of views: Mr. Muller asserts that Mr. Trigueiro's panoramic views of the San Francisco Bay, its inlands and bridges, and the Marin County skyline would be significantly obstructed by the proposed construction.

Response: Pursuant to Section 84-74.404(r) of the Kensington Combining District Ordinance, "views include but are not limited to scenes of skylines, bridges, distant cities, distinctive geologic features, hillside terrain, wooded canyons, ridges, and bodies of water." In addition, pursuant to Section 84-74.404(m) of the Kensington Combining District Ordinance, "Obstruction means any **substantial** blockage or diminution by the proposed development on surrounding neighbors' light, solar access, view, or preexisting solar energy systems." Based upon the project plans and photos submitted with the Staff Report prepared for the March 19, 2018 hearing date, the Zoning Administrator concluded that the proposed construction will not substantially block the light, solar access, or view of skylines, bridges, distant cities, geologic features, terrain, or bodies of water for any of the neighboring properties.

- B. Concern regarding the obstruction of views caused by the trees on the subject property: Mr. Muller's letter asserts that the subject parcel contains at least three (3) substantial trees that block Mr. Trigueiro's view and should be trimmed by the property owner.

Response: The purpose of the of the Tree Obstruction Of Views Combining District Ordinance is to provide a method for private property owns to gain restoration of views and sunlight lost due to tree growth by another private property owner. This Ordinance provides guidance on how to submit a claim. However, as stated under Section 816-2.1004, "enforcement of this chapter shall be by the involved private parties." Therefore, it is not under the purview of the Zoning Administrator to require the applicant to cut or trim the existing trees on the subject property. This is a civil matter between private property owners.

- C. Concern regarding CEQA exemption status: Mr. Muller claims that the project should not be exempt from CEQA because the visual impacts of the proposed construction should be considered an unusual circumstance.

Response: The letter implies that visual impacts constitute unusual circumstances, which will have a significant effect (aesthetically) on the environment. Based upon the project plans and photos submitted with the Staff Report prepared for the March 19, 2018 hearing date, the Zoning Administrator concluded that the proposed construction will not substantially block the light, solar access, or view of skylines, bridges, distant cities, geologic features, terrain, or bodies of water for any of the neighboring properties. In addition, no substantial evidence has been provided to indicate that the CEQA exemption was improperly used. Under CEQA Section 15384, substantial evidence means "enough relevant information and reasonable inferences from this information that a fair argument

can be made to support a conclusion, even though other conclusions might also be reached." Therefore, the Zoning Administrator agrees with Staff and the proposed project is exempt under CEQA Guidelines, Section 15301(e)(1), regarding "Existing Facilities", which exempts additions to existing structures, provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. No addition to the Gross Floor Area is proposed as part of this project.

- D. Concern regarding the chimney: Mr. Muller suggests that details regarding the raised chimney are unclear.

Response: Both the staff report and elevations indicate that the existing fireplace chimney and gas flue will extend 2 feet above the proposed skylights (which will extend 18 inches higher than the new raised roof ridge). Projects are approved pursuant to the plans submitted with the application and the elevations show what the chimney and gas flue will look like. Additional concerns were raised about whether the existing fireplace meets current code requirements. This a building code matter that will be reviewed by Building Inspection upon submittal for building permits. The property owner will not be exempt from any building code requirements.

- E. Concern regarding the deck: Mr. Muller asserts that the existing wooden deck is not at grade and if replaced, would not conform to the required setbacks.

Response: The applicant is aware that if replaced, the wooden deck must conform to the required setbacks. Pursuant to an email from the applicant received on March 20, 2018, the deck will not be included as part of the proposed project and will be left as is.

- F. Concern regarding taking a project to hearing without obtaining all relevant input from affected neighbors:

Response: As discussed in the staff report and provided testimony, it should be acknowledged that the applicant and property owner reduced the overall height of the skylights. The proposed skylights will measure 18 inches higher than the new raised roof instead of 36 inches higher than the new raised roof ridge. In addition, the applicant and property owner agreed to re-orient the skylights over the bedroom hall so they align and create a more harmonious roof pattern and to paint the skylight curbs and metal frames gray to match the new roof color. The applicant and owner also agreed to relocate the solar panels to the other side of the roof, over the subject property's master bedroom and away from Mr. Trigueiro's home. Furthermore, nine (9) neighbors provided letters of support for the proposed construction.