

December 23, 2019

TP19-0036
CONTRA COSTA

2019 DEC 23 PM 2:52

APPLICATION & PERMIT CENTER

Department of Conservation and Development

30 Muir Rd

Martinez CA 94553

Attn: Susan Johnson, Candace Andersen, John Kopchik

Re: County File TP19-0036, APN: 238-050-007 Appeal to the Planning Commission's vote to deny appeal and uphold zoning administrator's decision.

Dear Ms. Johnson, Ms. Andersen and Mr. Kopchik,

I live at 2757 West Newell Avenue in Walnut Creek, next door to a proposed construction for a two-story, 3,500 sq ft. single-family home and retaining wall. The owners and applicants, Tambri Heyden and David Montalbo sought approval for a tree permit to remove 22 code-protected trees and to work within the driplines of 6 code-protected trees. After a hearing with the planning commission on December 11, 2019, their application was approved against the appeal of my neighbors William Schultz and Patricia McGregor by a vote of 4-3.

I am exercising my right to appeal the vote of the commission.

To begin, I appreciate the commissioners who made site visits and who made sincere efforts to incorporate the information that we, the appellant and supporting neighbors, were not able to provide until just before or during the hearing. The debate amongst the commissioners highlighted several questions that remain about this tree permit. Those commissioners who voted against the application to cut down the 22 trees did so because there were so many unanswered questions.

I wanted to raise a few concerns about the public hearing process and the steps leading up to it.

The staff report was only made available to us on Thursday, December 5th, by email, and only after calling and asking for it. Paper copies, which include the larger and more readable attachments of the building plan, arrived in the mail two days before the hearing--not the 96 hours we were told. Not having earlier access to the staff report, and most importantly, the building plans, tree reports, findings and conditions of approval, makes it nearly impossible for the appellant or interested neighbors to process the information or provide meaningful details to agencies or professionals so they might review the facts and raise questions. Some of the questions that were raised during the hearing could have been answered if we had been given the more complete information earlier. On-site visits to the Planning and Development department necessitate time off work for most people, and such visits don't allow visitors to make or take copies of documents.

At the very beginning of the evening, without even hearing from the appellant or neighbors, Commissioner Van Buskirk mistakenly thought he was commenting on 2a (our agenda item) and voted to "deny appeal and uphold zoning administrator's decision." He needed to be corrected by Commissioner Wright on which matter he was deciding on (5a, not 2a). His automatic denial of the

appeal makes it clear that while some commissioners are very interested in understanding the details before rendering a decision, he had prejudged the matter which raises questions about fairness and the overall purpose of a public hearing.

During the hearing, Applicant Tambri Heyden, several times went to the Staff table to communicate directly with the planner and other staff. This can be seen on the video of the hearing towards the end of 2a, but it happened several other times outside of the camera's view. Those in attendance were not able to hear these comments. Why is this lack of transparency allowed at a public hearing?

Some of the outstanding questions that were raised in the meeting are:

- Can a fire truck turn around?
- What does Fish and Wildlife have to say about protected species in the area (whip snake)?
- Did the zoning administrator see the revised plan?
- What are the impacts of additional drainage on West Newell Ave, which is already challenged by an outdated drain system?

Can these questions and others raised during the hearing be addressed before the applicants remove any trees?

As has been recognized by the applicants and the commissioners, this is a difficult site to develop. This property includes Open Space, is bordered by easements, and slope and terrain restrict actual buildable portion to a small flat area. Others have tried to build on it in the past and have given up. The owner of an adjoining parcel that was sold by the same agent/attorney as this one has apparently given up on his build before even starting. In addition, our neighborhood has an unfortunate history of tree removal followed by houses later deemed uninhabitable due to a lack of proactive planning.

While the application was approved with an additional condition of approval added that the applicants must get a building permit before any trees are destroyed, this does not go far enough to protect the trees and the neighborhood. Given the complications this site presents, please consider the following common-sense additions:

Condition of approval to add drainage permit: We learned in the hearing from Applicant David Montalbo that "drainage will be captured and directed to West Newell." This is unwelcome news for those of us already living here. West Newell Avenue becomes "West Newell River" in the rainy season. The county is well aware of these issues. Commissioner Allen asked during the commissioner vote portion of the hearing if an additional condition of approval could be added for a drainage permit to be approved before any trees were removed, but it was explained to her that it was too late in the hearing process for her to ask.

Better condition of approval for mitigation: Currently If this project is approved and the 22 trees are removed, the applicants are asked to plant 3 trees on the property. This is clearly unbalanced. The attached letter from the California Oaks Foundation sites Section 8-h of the Conservation Element of the Contra Costa General Plan states the county's intention to provide a formula for mitigation plantings:

Amend the ordinance to require developers to pay mitigation costs according to an adopted schedule, such as requiring, where appropriate and to the extent legally permissible, that three new trees be planted for every

.302one mature tree removed as part of a development. Replacement trees should be the same or a similar species as the tree removed, and should be native species or naturalized species which are well-adapted to the site's conditions without posting a threat of invasion into surrounding lands.

While the specific language above is not in the tree ordinance. The California Wildlife Foundation and California Oaks program notes the current mitigation proposal is counter to the Contra Costa General Plan, and the proposed mitigation ratio of three to one aligns with the Contra Costa County's Climate Action Plan. While the site itself may not support more mitigation efforts, there is no reason why trees can't be planted elsewhere in unincorporated Contra Costa County. This could fit well with the proposed CAP (Measure EE4) to increase the number of shade trees planted in unincorporated Contra Costa county.

Small lot/substandard lot design review. As noted on page 3 of the planner's report and several commissioners during the hearing, the size of the house is out of scale with the other houses in the neighborhood by over 1,100 sq feet. While the lot itself is much bigger than others in the neighborhood, after subtracting the areas that are subject to easement, utility lines, and are open space , the resulting buildable area is actually smaller than the flat space the rest of the houses in the neighborhood enjoy. The proposed house is therefore far out of scale not only with the buildable portion of the lot but also with the other houses in the neighborhood. A smaller house design would fit better with the neighborhood and could save a number of trees.

My concerns are not based on a desire to thwart the dreams of the applicants but to raise concerns that this particular build may be ill-fated and it is best for everyone that all challenges be fully understood, addressed and mitigated before so many valuable trees are irrevocably lost. It has taken decades for this oak grove to reach its current state of maturity and its benefits to our neighborhood are immeasurable. It would be a terrible outcome to lose these trees for a large build that either couldn't be completed, or adds further infrastructure complications to our neighborhood.

Respectfully,

Bronwyn Shone

2757 West Newell Ave

Walnut Creek CA 94595

Department of
Conservation and
Development

30 Muir Road
Martinez, CA 94553-4601

Phone: 855-323-2626

Contra
Costa
County



John Kopchik
Director

Jason Crapo
Deputy Director

Aruna Bhat
Deputy Director

Maureen Toms
Deputy Director

Kelli Zenn
Business Operations Manager

PAYER: SCOTT DAWSON
2757 W NEWELL AVE
WALNUT CREEK, CA 94595

APPLICATION #: CDTP19-00036

TYPE: Tree Permit Review

Payment Type: Check

Check Nbr: 407

ACCOUNT ITEM LIST:

Item #	Description	Total Fees	Current Paid	Total Paid
0047	Appeal (\$125)	\$125.00	\$0.00	\$125.00
0047	Appeal (\$125)	\$125.00	\$125.00	\$125.00
0047	Appeal (\$125)	\$125.00	\$0.00	\$125.00
052B	Notification Fee (\$30)	\$30.00	\$0.00	\$30.00
TPS051X	Alteration of Protected Tree	\$500.00	\$0.00	\$500.00
Total Fees:		\$905.00	Paid:	\$905.00
			Balance:	\$0.00

ISSUED BY: DRECKMEYER-
WALTON

DATE: 12/23/2019

APPLICATION DESC: Applicant requests approval of a tree permit in order to remove 21 code-protected trees ranging in size from 8" to 43.5" and work within the dripline of 4 code-protected trees ranging in size from 10" to 33" for the construction of a new 4,000 square-foot single-family residence on a vacant lot.

SITE ADDRESS: 0 OLYMPIC BLVD, WALNUT CREEK, CA 94596

PARCEL: 238050007

NOTES: