



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: January 17, 2017

Subject: Appeal of the County Planning Commission's Approval of County File #DP16-3002, to construct a new Single-Family Residence at 192 High St. in Pacheco

RECOMMENDATION(S):

- 1.) OPEN the hearing, ACCEPT testimony and CLOSE the hearing.
- 2.) FIND that the proposed project is categorically exempt from the California Environmental Quality Act - Class 3 (CEQA Guidelines 15303 (a)).
- 3.) DENY the appeal of Tami Welcome.
- 4.) SUSTAIN the decision of the County Planning Commission.
- 5.) APPROVE County File #DP16-3002, a development plan to demolish an existing single-family residence and construct a new 2,220 square-foot single-family residence with a tree permit to remove two multi-stemmed pine trees.
- 6.) ADOPT the attached findings and REVISED conditions of approval for County File #DP16-3002.
- 7.) DIRECT the Department of Conservation and Development to post a Notice of Exemption with the County Clerk.

FISCAL IMPACT:

The applicant has paid the initial deposit, and is obligated to pay any additional costs associated with the application.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/17/2017** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 17, 2017

Contact: Jaclyn Isip,
925-674-7815

David Twa, County Administrator and Clerk of the Board of
Supervisors

By: , Deputy

cc:

BACKGROUND:

Project Summary

This is an appeal of the County Planning Commission's (CPC) decision to approve County File #DP16-3002, a proposal to construct a new single-family residence at 192 High Street in Pacheco. The subject site is rectangular in shape and is 10,200 square feet in area (approximately 60 feet wide and 170 feet deep). The existing residence was built in 1942 and the 576 square-foot accessory building was constructed in 1959. The proposal includes demolishing the existing 989 square-foot single-family residence to construct a new single-family residence.

On December 4, 2015, the Small Lot Design Review application was submitted proposing to demolish approximately 500 square feet of the existing residence to allow for the construction of a one-story addition of approximately 1,885 square feet, totaling approximately 2,375 square feet of living space. On January 8, 2016, a Development Plan application was submitted with a new proposal to demolish the entire 989 square-foot single-family residence to construct a new one-story 2,220 square-foot residence.

The new residence will include 2,220 square feet of livable space, a 494 square-foot two-car garage, a 139 square-foot front yard covered porch, a 155 square-foot rear yard deck and will measure 17 feet at the highest point. There is an existing 576 square-foot unconditioned accessory structure and a 126 square-foot shed in the rear of the property that will remain. In addition the project includes the removal of two multi-stemmed pine trees located where the residence is proposed. The new residence is in proximity to an oak tree on the adjacent property located to the north, however the oak tree is not code-protected since it is not 1) part of a grouping of four or more indigenous trees measuring 6.5 inches in diameter or larger or 2) located on an undeveloped property.

The subject parcel was created in January of 1959 with approval of a Variance (County File #VR58-579) to subdivide one lot into two lots each having less than 80-foot average widths (approved with 60-foot average widths). The neighborhood is developed with one and two story single-family residences within the Single-Family Residential R-10 zoning district, and the General Plan Designation is partially-Open Space (OS) and partially-Single-Family Residential-High Density (SH). Properties within the area consist of a minimum of 6,000 - 14,450 square-foot lot sizes and 50 percent of the parcels are substandard in size. Residences in the neighborhood range in size from 954 - 2,114 square feet of living space.

General Plan Consistency

The subject property has a General Plan Designation that is partially Open Space (OS) and partially Single-Family Residential-High Density (SH). Approximately seventy percent of the project is designated as OS and thirty percent designated as SH. One single-family residence on an existing legal lot is consistent with the OS designation. The

SH designation allows for a range of 5.0 to 7.2 single-family units per net acre. The project involves demolishing one existing residence and constructing a new single-family residence on an existing legal lot. The proposal is consistent with the General Plan.

Zoning Compliance

The subject property is zoned R-10, Single-Family Residential District with a 10,000 square-foot minimum lot size and an 80-foot average lot width. The R-10 Zoning District allows for a single-family residential use and ancillary buildings and structures associated with the development. The subject property has a 60-foot average lot width and is substandard in size. Any development requires a Small Lot Design Review to determine compatibility with the surrounding neighborhood. The project complies with the required setbacks for the property, measuring 25 feet from the front property line, 11 feet from the side property lines, and 64 feet from the rear property line. The proposed 494 square-foot two-car garage will satisfy the off-street parking requirement for the R-10 zoning district.

Summary of Approval and Appeal Process

Application Submittal

An application for a Small Lot Design Review was submitted to demolish approximately 500 square feet of the existing residence to allow for the construction of a single story addition of approximately 1,885 square feet of living space to an existing residence. The notices were mailed and resulted in a request for a public hearing. On January 8, 2016, the applicant decided to move forward with the project and submitted for Development Plan application #DP16-3002 which proposed a new residence with 2,220 square feet of living space. The proposal for #DP16-3002 was noticed to neighbors within 300 feet, 10 days prior to the Zoning Administrator Hearing.

Zoning Administrator (ZA) Hearing and Decision

This project was initially heard by the ZA on May 16, 2016. At the hearing, the ZA took testimony from the applicant and the appellant, Ms. Tami Welcome. After considering testimony, the ZA indicated that the project is consistent with the R-10 zoning district, meets the required findings, and approved the project as recommended by staff. An appeal of the Zoning Administrator's decision was received on May 25, 2016 (see attached).

Board of Appeals (County Planning Commission) Hearing and Decision

On July 12, 2016, the County Planning Commission (CPC) held a public hearing on the appeal of the ZA's decision to approve this Development Plan application. The hearing included staff's presentation, as well as a testimony from the property owner and the appellant (CPC staff report attached). At the conclusion of staff's presentation, the CPC requested clarification regarding building coverage, whether the existing accessory

buildings that will remain are in compliance with the building setbacks and building codes, and if there is 1-foot easement that exists along the southern side property line of the subject property. Staff informed the Commission that the R-10 zoning district does not restrict development through lot coverage but restricts development through building height and front, side, and rear setbacks and the proposal is consistent with these setbacks. Staff informed the Commission that the existing 576 square-foot unconditioned accessory building was permitted and all structures comply with applicable set back requirements. The Title Report and Grant Deed for the subject property received at the CPC hearing did not include a 1-foot easement. At the conclusion of the testimonies and a brief discussion, the Commission voted unanimously to deny the appeal and uphold the ZA's decision to approve the project.

Appeal of the County Planning Commission's Decision

On July 22, 2016, the County received an appeal of the CPC's decision to approve the proposed residential development. The appeal cited multiple points of opposition. Staff has summarized and provided a response to each appeal point below.

Review of Points Raised in Appellant's Appeal Letter

Summary of Appeal Point #1: The aerial photo presented by the applicant during the May 16th 2016 Zoning Administrator hearing and the July 12th 2016 Planning Commission hearing is inaccurate and misleading in relation to the size of homes in the neighborhood.

Staff Response: Staff researched several homes in the vicinity to compare the square footage of total living area with the proposed new residence and found that the size of the new residence was not disproportionate to the neighboring properties. Homes vary in size, measuring up to 2,114 square feet. The photographs presented during the May 16th 2016 Zoning Administrator hearing were used as a visual representation of the homes in the area in relation to not only size but location as well. As seen in an aerial view, homes in the neighborhood are concentrated closer to the front property lines with more rear yard. Based on size and location, the new residence is compatible and consistent with the neighborhood.

Summary of Appeal Point #2: The plot plan submitted does not include the required items to submit with a Development Plan application.

Staff Response: The plans dated February 16, 2016 included two existing site plans, existing elevations, a proposed site plan/floor plan, and proposed elevations. Of the two existing site plans, one was not drawn to scale. The existing site plan that was drawn to scale and the proposed site plan/floor plan included all requirements in the checklist, clearly labeled. Staff reviewed the scaled drawings and determined that the proposed residence meets the zoning setback requirements.

Summary of Appeal Point #3: There is a 2nd Tree Stump that requires a permit.

Staff Response: There is a 2nd tree stump adjacent to the multi-stemmed tree stump. Both tree stumps are protected since they are located on a vacant parcel. The tree permit includes the removal of both tree stumps and Condition of Approval (COA) #5 has been added to include restitution to replant and bond for two (2) trees, minimum 15 gallons in size.

Summary of Appeal Point # 4: A Variance (County File #VR58-579) was approved to divide one lot into 2 lots each having less than 60-foot average widths. The proposed site plan shows the lot with a 60-foot width.

Staff Response: The subject property is zoned R-10, Single-Family Residential District. The R-10 district requires an 80-foot average lot width. In 1958, the lot was created through a Variance (County File #VR58-579). The variance was approved to divide one lot into 2 lots each having less than the average width. As a result, both lots were approved with 60-foot average lot widths; not less than 60-foot average widths. Therefore, the proposed site plan is accurately drawn with a 60-foot lot width.

Summary of Appeal Point # 5: The oak tree on the property that the applicant proposes to trim they state is not code-protected and is actually by size defined as a Heritage Tree and is in fact code protected.

Staff Response: The oak tree on the property measures 56 inches in diameter (175 inches in circumference). Pursuant to Section 816-4.402, the oak tree could qualify as a heritage tree. A heritage tree is any tree or group of trees particularly worthy of protection, and specifically designated as a heritage tree by the Board of Supervisors pursuant to the following:

- A. Having historical or ecological interest or significance, or
- B. Being dependent upon each other for health or survival, or
- C. Being considered an outstanding specimen of its species as to such factors as location, size, age, rarity, shape, or health.

Because the oak tree was not designated by the Board of Supervisors, it is not a Designated Heritage Tree.

The applicant plans on pruning a portion of the neighbor's oak tree that is leaning over the property line for the purpose of constructing the new single-family residence. Section 816-6.102 of the County Code provides that no permit is required for routine pruning that does not involve topping or tree removal. Condition of Approval (COA) #6 has been added to ensure that the applicant implement all recommended measures in the recommendations for the Tree Preservation section of the arborist report.

Summary of Appeal Point # 6: The new residence will be 65 feet away from the rear property line and closer to the front property line. This is inconsistent with the neighboring properties.

Staff Response: The new residence will be located approximately 25 feet from the front property line, 11 feet from both side property lines, and approximately 64 feet away from the rear property line, meeting all dimensional requirements for the R-10 zoning district with no variances. Homes within the neighborhood are primarily concentrated closer to the front property lines with a larger rear yard and more outdoor living space, therefore; the location of the new residence is consistent with zoning and, in staff's view, with the neighborhood.

Conclusion

The appeal points are similar to the testimony offered to the ZA and CPC and do not provide for overturning the CPC's decision. The project is consistent with the R-10 zoning district and with the General Plan.

Considering these facts, staff recommends that the Board of Supervisors deny the appeal by Tami Welcome and sustain the County Planning Commission's decision to approve County File #DP16-3002, subject to the attached findings and REVISED conditions of approval.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors grant the appeal, the County Planning Commission's decision to uphold the County Zoning Administrators approval to construct a new residence at 192 High Street will be overturned. The owners of 192 High Street will be unable to construct a new residence.

CHILDREN'S IMPACT STATEMENT:

None. This Board Order is for an appeal of an application to construct and new single family residence and will not impact children's programs in the County.

CLERK'S ADDENDUM

Speaker: Douglas S. Van Raam, resident of Martinez. CONTINUED to February 7, 2017 at 9:30 a.m.

ATTACHMENTS

MAPS

Resolution 12-2016

Revised Conditions

CPC Approved Findings/COAs

CPC Appeal by Tami Welcome

ZA Appeal by Tami Welcome

CPC Staff Report

ZA Staff Report

Agency Comments

Notice for ZA and CPC Hearings

Reduced Plans

Photographs

Presentation