



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: March 21, 2017

Subject: Appeal of the County Planning Commission's Approval of County File #DP16-3037, to Construct a New Single-Family Residence in Martinez

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 Diana Daniels.
- 4.) UPHOLD the decision of the County Planning Commission.
- 5.) APPROVE County File #DP16-3037, a development plan to demolish an existing garage and construct a new 1,825 square-foot, two-story, single-family residence on a substandard parcel.
- 6.) ADOPT the attached revised findings and conditions of approval for County File #DP16-3037.
- 7.) DIRECT the Department of Conservation and Development to post a Notice of Exemption with the County Clerk.

FISCAL IMPACT:

The applicant 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: **03/21/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: Candace Andersen, District II
Supervisor
Diane Burgis, District III
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: John Gioia, District I
Supervisor
Karen Mitchoff, District IV
Supervisor

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: March 21, 2017

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

By: June McHuen, Deputy

Contact: Jaclyn Isip,
925-674-7815

cc:

BACKGROUND:

Project Summary

This is an appeal of the County Planning Commission's (CPC) decision to approve County File #DP16-3037, a proposal to construct a new single-family residence on a parcel located between 1025 and 1049 Sierra Avenue in the unincorporated Martinez area. The subject site is rectangular in shape and is 5,250 square feet in area (42 feet wide and 125 feet deep). The subject property was created in February of 1916 as Lot 3 of Martinez Land Tract 6 Subdivision. Directly northwest of the subject property is the City of Martinez's jurisdiction. The surrounding neighborhood is developed with one and two story single-family residences within the Single-Family Residential R-6 zoning district and the Single-Family Residential-High Density (SH) General Plan Designation. Properties within the area consist of 4,300 – 7,800 square-foot lot sizes and 50 percent of the parcels are substandard in size measuring less than 6,000 square feet and less than the minimum width of 60 feet. Residences in the neighborhood range in size from 610 – 2,207 square feet of living space. The existing two-car garage has no building permit record on file but was built on the property prior to the establishment of the County Zoning Ordinance (1947).

On July 22, 2016, a Small Lot Design Review application was submitted to demolish the existing two-car garage for the construction of an 1,825 square-foot, two-story, single-family residence. During the public comment period, two requests for a public hearing were received as well as comments from a neighbor. As a result, a Development Plan application was submitted on August 8, 2016. The proposed residence will include 1,825 square feet of livable space, a 462 square-foot two-car garage and will measure 26 feet 9 inches in height. The construction will be in proximity of two maple trees on the neighbor's property that are not code protected because the trees are 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.

General Plan Consistency

The subject property has a Single-Family Residential-High Density (SH) General Plan Designation. The SH designation allows for a range of 5.0 to 7.2 single-family units per net acre. The project involves demolishing an existing two-car garage and constructing a new single-family residence. With a 5,250 square-foot lot size, one single-family unit is consistent with the SH designation, therefore, the proposal is consistent with the General Plan.

Zoning Compliance

The subject property is zoned R-6, Single-Family Residential District with a 6,000 square-foot minimum lot size and a 60-foot average lot width. The R-6 zoning district

allows for a single-family residential use and ancillary buildings and structures associated with the development. The subject property is substandard in size and width with a 5,250 square-foot lot size and a 42-foot average lot width. 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 20 feet from the front property line, 5 feet from both side property lines with a 10-foot aggregate side yard, and 55 feet away from the rear property line. The 462 square-foot two-car garage will satisfy the off-street parking requirement for the R-6 zoning district.

Summary of Approval and Appeal Process

Application Submittal

An application for a Small Lot Design Review was submitted on June 22, 2016, to demolish an existing two-car garage and construct a new, 1,825 square-foot, two-story, single-family residence. The notices were mailed and resulted in a request for a public hearing. On August 8, 2016, the applicant decided to move forward with the project and submitted for Development Plan application #DP16-3037. The proposal for #DP16-3037 was noticed to neighbors within 300 feet, 10 days prior to the Zoning Administrator Hearing.

Zoning Administrator Hearing and Decision

On December 5, 2016, a public hearing was scheduled where the Zoning Administrator (ZA) took testimony from the applicant and neighbors. After considering testimony, the ZA indicated that the proposed project is consistent with the R-6 zoning district, meets the required findings as they relate to location, size, height, and design, and approved the project with modifications and the addition of two conditions of approval (COA). To ease concerns of damaging the trees proposed for pruning located on the adjacent parcel, the ZA added a condition requiring a licensed arborist to be present on site during this process. To address any drainage concerns, the ZA added a condition requiring the applicant to provide a copy of the grading plans to the residence at 1006 Sierra Avenue and any other interested party. Furthermore, the ZA determined the neighborhood was eclectic in that the homes were both modern and older homes constructed from 1916 to 2001. On December 17, 2016, an appeal of the ZA's decision to approve #DP16-3037, was received from Mr. Clarence Lehman of 1040 Sierra Avenue.

Board of Appeals (County Planning Commission) Hearing and Decision

On January 11, 2017, 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, the appellant, Mr. Clarence Lehman, and neighbor, Ms. Diana Daniels. After accepting and considering all testimony, the Commission voted to deny the appeal and uphold the ZA's

decision to approve the project.

Appeal of the County Planning Commission's Decision

On January 23, 2017, the County received an appeal of the CPC's decision to approve the proposed residential development from Ms. Diana Daniels of 1049 Sierra Avenue. Staff has summarized and provided a response to the appeal point below.

Review of Appellant's Appeal Letter

Summary of Appeal Point: The proposed house is going to require possible grading and fencing which will be too close to my house and PG&E panel since my house is approximately 1-foot 6 inches from the side property line.

Staff Response: The project involves grading, cutting 4 cubic yards and filling 391 cubic yards of dirt, as shown on the plans submitted on February 13, 2017 (Exhibit – Plans). As mentioned, the subject property measures 42 feet wide and 125 feet deep. The property is rectangular; the front and rear property lines both measure 42 feet and both side property lines measure 125 feet. Ms. Diana Daniels lives adjacent (northeast) to the subject property. The applicant proposes a retaining wall/fence combination with a maximum height of 6 feet along the side property line shared with Diana Daniels. The retaining wall/fence will begin approximately 26 feet from the front property line and will extend to the rear property line. The proposed retaining wall/fence combination with a maximum height of 6 feet is permitted along the side property line. The R-6 zoning district restricts structures to a minimum of 20 feet from the front property line, 5 feet from both side property lines, and 15 feet from the rear property line. Pursuant to Section 82-4.270 of the County Ordinance, a structure is defined as anything constructed or erected on and permanently attached on land, except fences with a maximum height of six feet or retaining walls with a maximum height of three feet or any combination thereof not over six feet high.

While Ms. Daniels' residence is situated at an angle, the back corner of her home is located 1-foot 6 inches from the side property line shared with the subject property. From this back corner, the 1-foot 6-inch distance to the side property line gradually increases to 3 feet 2 inches to the front corner of Ms. Daniels' residence. After further research and inquiry with PG&E's engineering department, staff finds that the 2016 Electric & Gas Requirements (Greenbook Manual) regulates working space clearance for PG&E panels. Section 5.4.4 of PG&E's 2016 Greenbook Manual defines working space as the whole area in front of a meter panel/enclosure and associated equipment that provides access to the equipment, a safe working environment for personnel and that working space must be located entirely on the applicant's property. Section 5.4.4 also states that the working space dimensional requirement for meter panels and service equipment that are semi-flushed or enclosed shall be 30 x 36 inches (2.5 x 3 feet). The PG&E panel on Ms. Daniels' residence is located within the first 3 to 5 feet of the northeastern side of her

residence. The Boundary and Topographic survey dated July 7, 2016 indicates that the first 12 feet of the northeastern portion of Ms. Daniels' residence measures between 3 feet and 3 feet 2 inches from the side property line. If the applicant were to install a retaining wall or fence along the shared property line, the required 30 x 36 inch (2.5 x 3 foot) working space required under Section 5.4.4 of the 2016 Greenbook Manual will be met and the PG&E panel will still be accessible.

Conclusion

The appeal points are similar to the testimony offered to the ZA and CPC and do not provide for a change in the CPC's decision. The project is consistent with the R-6 zoning district, the General Plan and compatible with the neighborhood.

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the proposed project is not approved, the property owner will be unable to obtain necessary permits 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 is not anticipated to impact children's programs in the County.

CLERK'S ADDENDUM

Speakers: Diana Daniels, Appellant; Tambri Heyden and David Montalbo, Applicant/Owners; Clarence Lehman, resident of Martinez.

CLOSED the hearing; FOUND that the proposed project is categorically exempt from the California Environmental Quality Act; DENIED the appeal of Diana Daniels; UPHELD the decision of the County Planning Commission; APPROVED County File #DP16-3037, a development plan to demolish an existing garage and construct a new 1,825 square-foot, two-story, single-family residence on a substandard parcel; ADOPTED revised findings and conditions of approval for County File #DP16-3037; and DIRECTED the Department of Conservation and Development to post a Notice of Exemption with the County Clerk.

ATTACHMENTS

Maps

Revised Findings & Conditions of Approval

Resolution 6-2017

BOS Notice 300 foot list

Appeal - Diana Daniels

Appeal - Clarence Lehman

Staff Report - County Planning Commission

Staff Report - Zoning Administrator

Agency Comment

Hearing Notice - County Planning Commission & Zoning Administrator

Plans

Photographs

