



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/17/2024

ITEM NO: 18

DATE: December 12, 2024
TO: Town Council
FROM: Chris Constantin, Town Manager
SUBJECT: Consider an Appeal of a Planning Commission Decision to Approve an Architecture and Site Application for Construction of a Single-Family Residence and Site Improvements Requiring a Grading Permit on Vacant Property Zoned R-1:8. **Located at 15411 National Avenue.** APN 424-12-140. Architecture and Site Application S-23-033. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction. Property Owners: Vyankatesh and Ramya Muddada. Applicant: Jose Rama. Appellant: Hellen Martinez. Project Planner: Erin Walters.

RECOMMENDATION:

Adopt a resolution denying an appeal of a Planning Commission decision to approve an Architecture and Site application for construction of a new single-family residence and site improvements requiring a grading permit on vacant property zoned R-1:8, located at 15411 National Avenue.

BACKGROUND:

The subject property is 13,209 square feet, located on the west side of National Avenue approximately 152 feet south of Blackwell Drive (Attachment 1, Exhibit 1). The property is a vacant rear flag lot, located behind a property with an existing one-story single-family residence.

On October 10, 2023, the applicant submitted an Architecture and Site application for the construction of a two-story single-family residence with a cellar and associated site grading on the subject site. In August 2024, the applicant obtained permits and demolished multiple accessory structures from the subject site. The site is currently vacant.

PREPARED BY: Erin Walters
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

On November 13, 2024, the Planning Commission considered the application, including written and verbal public comments (Attachments 1, 2, and 3). The Planning Commission approved the application subject to modified conditions as described in the Action Letter (Attachment 4) and Section B below.

On November 25, 2024, the decision of the Planning Commission was appealed to the Town Council by an interested person, Hellen Martinez, property owner of 377 Blackwell Drive (Attachment 5). The appellant indicated that there was an error or abuse of discretion by the Planning Commission.

Pursuant to the Town Code, any interested person as defined by Section 29.10.020 may appeal to the Council any decision of the Planning Commission. For residential projects, an interested person is defined as “a person or entity who owns property or resides within 1,000 feet of a property for which a decision has been rendered and can demonstrate that their property will be injured by the decision.” The appellant meets the requirements.

Pursuant to Town Code Section 29.20.280, the appeal must be heard within 56 days of the Planning Commission hearing, in this case by January 8, 2025. The Council must at least open the public hearing for the item and may continue the matter to a date certain if the Council does not complete its deliberations.

Pursuant to Town Code Section 29.20.295, in the appeal, and based on the record, the appellant bears the burden to prove that either there was an error or abuse of discretion by the Planning Commission or the decision was not supported by substantial evidence in the record. If neither is proved, the appeal should be denied. If the appellant meets the burden, the Council shall grant the appeal and may modify, in whole or in part, the determination from which the appeal was taken or, at its discretion, return the matter to the Planning Commission. If the basis for granting the appeal is, in whole or in part, information not presented to or considered by the Planning Commission, the matter shall be returned to the Planning Commission for review.

DISCUSSION:

A. Project Summary

The applicant proposes construction of a new 3,240-square foot, two-story residence with an attached 901-square foot, three-car garage. The residence also includes 1,700 square feet of below grade square footage, which includes a 500-square foot Junior Accessory Dwelling Unit (JADU). The development plans also include a detached 900-square foot Accessory Dwelling Unit (ADU). The proposed JADU and ADU are not the subject of this application and require ministerial building permit approval pursuant to state law. (Attachment 1, Exhibit 11).

A single-family residence is permitted in the R-1:8 zone. The proposed residence is in compliance with the maximum allowable floor area, building height, setbacks, lot coverage, and on-site parking requirements for the property. A full discussion and analysis of the application is provided in the November 13, 2024, Planning Commission Staff Report (Attachment 1). Within the immediate neighborhood, the proposed project results in the largest residence in terms of square footage, by 511 square feet, and the largest garage in terms of square footage, by 124 square feet.

B. Planning Commission

On November 13, 2024, the Planning Commission received the staff report and addendum (Attachment 1 and 2). After receiving public comment and asking questions of the applicant, the Planning Commission closed the public hearing and discussed the project. Based on the neighbor's concerns, the motion for approval included additional conditions of approval requiring selection of non-allergenic privacy tree species, window placement, and the use of obscured glass on windows to address privacy concerns (Attachment 4, Conditions 10, 11, 12, and 14). The Planning Commission voted three to two to approve the application with modified conditions of approval. Attachment 3 contains the verbatim minutes.

C. Appeal to Town Council

The decision of the Planning Commission was appealed on November 25, 2024, by an interested person, Hellen Martinez (Attachment 5). On the appeal form, the appellant states that there was an error or abuse of discretion by the Planning Commission based on the following:

- The project is inconsistent with neighborhood compatibility per the Residential Design Guidelines;
- Incorrect assumption was made that neighbors would only accept a single-story development; and
- The conditions of approval are vague and difficult to enforce.

On December 4, 2024, the appellant submitted a supplemental letter to support their appeal (Attachment 6). The supplemental letter expands on reasons for the appeal as described in the November 25, 2024, Appeal of a Planning Commission Decision form (Attachment 5). On December 10, 2024, the applicant submitted a response to the appeal (Attachment 7). A summary of the specific reasons listed in the appeal form and in the appellant's supplemental letter are provided below as verbatim excerpts, followed by the applicant's response in *italic*, and staff's response.

1. Appellant: There was an error or abuse of discretion by the Planning Commission as “the project is inconsistent with neighborhood compatibility per the Residential Design Guidelines.”

Excerpt from Appellant’s Supplemental Letter: “The project is inconsistent with neighborhood compatibility, sizing, massing, and scale of the Residential Design Guidelines. The proposed two-story, three level structure, with 3,240 square feet, a 901-square foot oddly distributed garage, a 1,700 square foot basement, a 570 sq ft covered patio, and a 36 square feet front porch coverage, totaling 6,447 square feet of gross square footage, plus an attic, is massive. The project maximizes the allowable size, which as one of the commissioners put it, “is a maximum, not a goal”, and would be by far the largest structure among the surrounding single-family, residential homes. It is over twice the structural size of the largest adjacent two-story and single-story houses, which also lie on similarly sized lots of approximately 10,000 square feet. One of the commissioners said the proposed structure is “not that much larger than the next largest house” and that is incorrect. The size, massing, scale, bulk, and style of the proposed structure does not harmonize with the houses in the immediate neighborhood, including ours, and it stands out even more so by its location in the middle of the city block (in a flag lot/corridor lot), which causes it to overlook all the neighboring backyards from every side. This is not in line with the Residential Design Guidelines.”

Appellant’s Request: The appellant requests to “decrease the size of the proposed two-story structure to one that is less massive, more harmonious and in scale, bulk, and size with the surrounding structures and its positioning in the middle of the city block, by following the Residential Design Guidelines.”

Applicant’s Response: *“We have worked with the staff for over a year to make sure we are following all the Town codes and guidelines, to not exceed Floor Area calculated by staff, to meet almost all suggestions mentioned by the Town Architect, and plan multi-generational home while still adhering to the FAR provided to us.”*

“We are following the Residential Design Guidelines as stated by Planning Commission.”

Staff Response: The proposed residence is 511 square feet larger than the next largest residence in the immediate neighborhood. The project does not exceed the maximum allowable floor area and is not the largest floor area ratio in the immediate neighborhood. The Planning Commission made the finding that the project is in compliance with the Residential Design Guidelines for single-family residences not in hillside areas and approved the project with modified conditions.

2. Appellant: There was an error or abuse of discretion by the Planning Commission as an “incorrect assumption was made that neighbors would only accept a single-story development.”

Excerpt from Appellant’s Supplemental Letter: “Based on various comments made by some of the Commissioners during the hearing, we believe they incorrectly assumed that we, the neighbors, were asking that the application be changed from a two-story house to a one-story house. This is inaccurate. In fact, two of our properties are two-story houses (373 Blackwell Dr and 377 Blackwell Dr), so we have no fundamental opposition to another two-story structure.”

Appellant’s Request: The appellant requests that the size of the proposed two-story structure be reduced to one that is less massive and more harmonious with the surrounding structures, especially given its location in the middle of the city block (flag lot), which causes it to overlook all the neighboring backyards from every side.

Applicant’s Response: *No response provided.*

Staff Response: During the Commissions deliberations Planning Commissioner Hansen suggested making some adjustments to the residence in order to satisfy the back neighbors and stated that she “suspected that the only adjustment that would work for the neighbors would be making the project a single-story” and that it would not be reasonable to reduce the project to a single-story because there are other two-story homes in the neighborhood.

3. Appellant: There was an error or abuse of discretion by the Planning Commission as an “the conditions of approval are vague and difficult to enforce.”

Relocation of Windows

Excerpt from Appellant’s Supplemental Letter: “Clarification is needed on the condition of approval to relocate windows. One of the Commission’s conditions for approval is that, in order to address the strong privacy concerns brought up by multiple neighbors before and during the hearing, ‘the applicants shall meet in good faith to relocate the offending windows such that they are the least offensive to the privacy interest of the neighbors.’ We feel that this language is vague and does not specifically state that the windows shall be relocated, or encompass all the windows brought up as an issue during the hearing.”

Appellant’s Request: The appellant requests that the condition of approval be amended to require redesign that all the offending windows shall be repositioned to a location that addresses the neighbors’ privacy interests.

Applicant's Response: *"We are going to put permanent obscure glass to cover the line of sight on both the egress windows and to address the Planning Commissions' conditions of approval we have decided to obscure additional windows."*

"Unfortunately, we cannot move our egress windows facing Blackwell Drive. The first window, the suggestion to move to the front, will affect my neighbor, 15385 National Ave; we had assured him that there would be no egress window on the front side of the property facing his, and going against it would be more offensive. The second egress window has multiple issues due to which this cannot be moved. a. We had assured 113 Leila Ct neighbor that there would be no egress window on the back side of the property facing their property, this discussion is in the staff report as part of neighborhood reach out. b. Our current patio roof design doesn't allow for an egress window in the back."

Staff Response: Condition of Approval 12 requires that the applicant shall meet in good faith to relocate the offending windows such that they are least offensive to the privacy interests of the neighbors (Attachment 4). Prior to submitting for Building Permits the applicant must relocate the offending windows to address privacy interests of the neighbors. Note some windows may need to retain their location due to building egress and ingress requirements.

Privacy Trees

Excerpt from Appellant's Supplemental Letter: "Clarification is needed on the condition of approval regarding trees. One of the Commission's conditions for approval is that "the [privacy] tree species shall be mutually agreed upon by the neighbors that they are a minimum protective of privacy and non-allergenic to any of the neighbors." While we appreciate and value this condition, we believe it's insufficient to address the concerns we expressed before and during the hearing, given that the proposed plan includes planting privacy trees by the section of the north fence facing 373 Blackwell Drive only, but not the section facing our property at 377 Blackwell Drive."

Appellant's Request: The appellant requests that the condition of approval be amended to require that both the species and also the number and location of the privacy trees shall be mutually agreed upon by the neighbors.

Applicant's Response: *No response provided.*

Staff Response: The Planning Commission added Condition of Approval 10 requiring the tree species to be mutually agreed upon by the neighbors, that they are at a minimum protective of privacy, and non-allergenic to any of the neighbors. The motion by the Planning Commission did not include requiring that the number and location of the privacy trees shall be mutually agreed upon by the neighbors. Condition of Approval 11 requires that prior to obtaining a building final, the property owner must plant five 24-

gallon trees along the northern fence line. Privacy trees must be maintained by the property owner.

Appellants Additional Reasons for the Appeal

The appellant provided additional reasons for the appeal, which are included in the appellant's supplemental letter (Attachment 6). These reasons were not included in the November 25, 2024, Appeal of a Planning Commission Decision form (Attachment 5).

1. Ongoing Tree Maintenance Covenant

Excerpt from Appellant's Supplemental Letter: "All the adjacent neighbors have experienced difficulties with the applicants during the last seven years since their ownership of the two lots, with multiple maintenance and repair and maintenance issues, specifically with respect to the level and speed of responsiveness even when dealing with severe damage caused by storms, for instance. We all have severe concerns about their level of commitment to perform the adequate level and frequency of maintenance to the privacy trees (which will be on their property)."

Appellant's Request: Add a condition of approval that an enforceable covenant of ongoing maintenance be established.

Applicant's Response: "The maintenance of the fence and gigantic oak tree that sits between two properties is the responsibility of all the property owners who share them, and this was never an issue before 2024. We shared the project plans with our neighbors in early 2024. I have never backed out of a commitment to have a new fence or pay my share. The same goes for the trimming of the Oak tree. I did request additional time as there was an access issue at my end of the property. Currently, the fences for both properties are new, and the Oak tree is trimmed."

Staff Response: Condition of Approval 11 requires the privacy trees to be maintained by the property owner (Attachment 4). During the public hearing, the Planning Commission discussed the possibility of including a tree maintenance covenant; however, this was not included in the final motion.

2. Unaddressed Significant Privacy and Quality of Life Concerns

Excerpt from Appellant's Supplemental Letter: "We have significant privacy and quality of life concerns given the intended use of the flag lot by the applicants as a high-density multi-dwelling complex. This includes the massive proposed 3-level structure, which could easily be subdivided at any time to be partially/totally used as multi-family dwellings, as well as their stated intent to build two ADUs in the future (which we understand is allowed by California law). While the applicant claims the proposed structure is a single-family

residence, its size, design, and layout suggest it could be easily converted into a multi-family dwelling or house several tenants.”

Appellant’s Request: “We respectfully encourage the Town Council/Planning Commission to reject this proposal. Allowing what is likely a multi-family unit to be disguised as a single-family home would not only be a violation of the zoning regulations but would also undermine the very fabric of our neighborhood. We ask that the size of the proposed two-story structure, be reduced to one that is less massive, more harmonious and in scale with the surrounding structures and its positioning in the middle of the city block.”

Applicant’s Response: *“The letter provided by the appellant contained a lot of incorrect, misleading, and misinformation. It is riddled with unfounded accusations that have no proof and is made with a sole intent of undermining our project and question our character.”*

Staff Response: A single-family residence, ADU, and JADU are permitted uses in the subject R-1:8 zone. The detached ADU and JADU are not the subject of this application and will require a ministerial building permit approval pursuant to state law.

If the property or uses are not compliant with Town Code, the Town’s Code Enforcement Officer can be contacted.

3. Clarification Regarding Visibility of Proposed House from Street

Excerpt from Appellant’s Supplemental Letter: “Inaccurate information regarding the visibility from the street of the proposed development, given that one of the very large trees (#67) blocking the structure from the street shows as ‘to be removed’ in the development plans, and upon further inquiry continues to be in question as to whether it will remain or not. This was a stated key clarifying point for one Commissioner as she considered the applicant’s not meeting one of the consulting architect’s recommendations.”

Applicant’s Response: *Our proposed plan is not visible from any street corner; you can only see it if you are standing right across 15415 National Avenue. The top of the front façade is only visible to 15400 National Avenue which is an office space and 15385 National Avenue (who has no objection to the project).“*

Staff Response: The proposed two-story residence is partially visible from National Avenue as it is located behind the existing one-story house located at 15415 National Avenue. The Planning Commissioner asked staff if the tower feature on the front elevation of the residence could be seen from National Avenue. Staff responded that it could not be seen from the street.

Tree #67, located on the front property, is proposed to be removed as part of a separate public sidewalk improvements requirement. Trees #62, #61, #68, #69 and #70 will remain at the front property.

PUBLIC COMMENTS:

Story poles and signage have been maintained on the site since the November 13, 2024, Planning Commission meeting. Written notice of the Town Council hearing was sent to property owners and tenants within 300 feet of the subject property. Public comments received between 11:01 a.m., Wednesday, November 13, 2024, and 11:00 a.m., Thursday, December 12, 2024, are included as Exhibit 9.

ENVIRONMENTAL REVIEW:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.

CONCLUSION:

A. Recommendation

For the reasons stated in this report, it is recommended that the Town Council uphold the decision of the Planning Commission and adopt a resolution (Attachment 8) denying the appeal.

B. Alternatives

Alternatively, the Town Council could continue the application to a date certain and:

1. Provide direction to staff to prepare a resolution to grant the appeal and remand the application back to the Planning Commission with specific direction;
2. Provide direction to staff to prepare a resolution granting the appeal and denying the application; or
3. Continue the application to a date certain with other specific direction.

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SUBJECT: 15411 National Avenue/S-23-033

DATE: December 17, 2024

Attachments:

1. November 13, 2024 Planning Commission Staff Report, with Exhibits 1 through 12
2. November 12, 2024 Planning Commission Addendum, with Exhibits 13 and 14
3. November 13, 2024 Planning Commission Verbatim Minutes
4. November 15, 2024 Planning Commission Action Letter with Modified Conditions of Approval
5. Appeal of the Planning Commission Decision, received January 22, 2024
6. Supplemental Correspondence from the Appellant, received December 4, 2024
7. Applicant's Response to Appeal, Received December 10, 2024
8. Draft Resolution to Deny Appeal and Approve Project
9. Public comments received between 11:01 a.m., Wednesday, November 13, 2024, and 11:00 a.m., Thursday, December 12, 2024