



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 10, 2013

ITEM NUMBER: PH-1

SUBJECT: APPEAL OF THE PLANNING DIVISION'S ZONING APPROVAL TO CONSTRUCT ADDITIONS TO THE FIRST AND SECOND STORY OF AN EXISTING TWO-STORY RESIDENCE.

DATE: JANUARY 31, 2013

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: ANTONIO GARDEA, SENIOR PLANNER

**FOR FURTHER INFORMATION CONTACT: ANTONIO GARDEA (714) 754-5692
antonio.gardea@costamesaca.gov**

PROJECT DESCRIPTION

An appeal of the Planning Division's Zoning Approval (BC 13-00844) to allow construction of first and second story additions to an existing two-story residence at 3384 Wimbledon Way, subject to conditions of approval. The appellant claims that the project impacts the privacy of the adjacent home directly behind (east) of the subject property and that the project does not comply with the City's Residential Design Guidelines, including, but not limited to, those concerning privacy, coverage, second-story designs and window placement.

APPELLANT

The appellant is Michael York, representing George Youssef, owner of an abutting property.

RECOMMENDATION

Adopt a Resolution upholding the Planning Divisions Zoning Approval to allow construction of first and second story additions to an existing two-story residence subject to conditions of approval.

Background

Zoning Approval BC 13-00844

On January 10, 2014 the Planning Division approved a request from David Maffei, representing Craig and Michelle Holliday, the property owners, to construct additions to an existing two story residence. The residence is currently 2,424 square feet in area. The proposed addition consists of 739 square feet of living area on the first floor and 966 square feet of living area on the second floor for a total of 1,705 square feet of new construction. The resulting home size will be 4,129 square feet.

The Notice of Zoning Approval (Attachment 3) issued by the Planning Division indicates that the proposed addition complies with the development standards of the Planned Development Residential-Medium District (PDR-MD) zone. A combined, ten foot setback is provided from the side property lines as required by the zoning Code. The first floor addition is set back a minimum of five from the north and south side property lines. The second story is setback five feet from the north property line and 17 feet from the south property line. The addition is exempt from the second story side yard setback of the City's Residential Design Guidelines since the project results in less than 50 percent lot coverage. A setback of 28 feet from the rear property line is provided. The notice goes on to state that views to adjacent properties are limited and no privacy impacts are anticipated.

On January 17, 2014, the Development Services Department received and an appeal request filed on behalf of George Youssef, the adjacent property owner to the east. The reasons provided for the appeal included privacy impacts, lot coverage, the second story design, and window placement. In addition, the appellant also cites that other undermined aspects of the plan may not copy with the Residential Design Guidelines. The appellant indicates that the City declined to provide copies of the plans for review. The plans may not be duplicated without expressed written permission of the architect, LSA Architecture Inc.

ANALYSIS

Project Site

The property is located on Wimbledon Way immediately north of Salinas Avenue. The single-family residence was developed as part of a zero lot line development (ZE-78-34). The property is within the Planned Development Residential–Medium Density District (PDR-MD zone) and has a general plan land use designation of Medium Density Residential. The site is adjacent to the Mesa Woods development that is zoned R1, Single-Family Residential District.

Zoning Compliance

According to Zoning Code Section 13-56 (2), the Planning Division may approve second story additions that meet the *setback standards*, comply with the *Residential Design Guidelines* adopted by the City Council, and do not materially affect the required *open space, site coverage or parking*. These standards and the guidelines are addressed below. As part of the review of the project against the Residential Design Guidelines, staff analyzes these issues and requires may require modifications to ensure compliance. The appellant cites privacy impacts resulting from lot coverage, the design of the second story, and window placement. These design aspects are specifically analyzed below.

Setbacks

The proposed addition complies with the minimum setback requirements of the PDR-MD zone as follows:

Setbacks		
Side	Minimum Required	Provided
Front (west)	5 feet; Garage shall be setback more than 23 feet from the face of the street curb.	24'-0"
Side (north)	0 feet on one side; 10 feet combination of both sides.	5'-0" (first and second floor)
Side (south)	"	5'-6" (first floor) 17'-0" (second floor)
Rear (east)	5 feet	28'-0" (first floor) 30'-0" (second floor)

Residential Design Guidelines

Second-Story Design

Second-story construction is subject to the following architectural design guidelines in conjunction with the Zoning Code development standards. The Residential Design Guidelines address second story design, building mass and form, second story side

yard setback, elevation treatment, window placement, integration of second story additions, site planning, and architectural consistency.

The second story design of the addition complies with the requirements of the Guidelines. The addition is designed with off-sets on all elevations to avoid a boxy appearance from the street and neighboring views. The side and rear elevations indicate that the exterior will be stucco with sand finish to match the existing elevations. The second-story floor area is 81 percent of the first-story floor area including the attached garage. The second story floor area includes an existing deck.

Building Mass and Form Considerations

The second story addition incorporates offsets along the north side. The south façade includes a gabled roof design, a modulated first floor addition, existing bay windows, and projections that add visual interest. Because the residence was originally constructed as a zero lot line home, there are no windows existing along the south side. The second story off-set design provides both a vertical and horizontal plane break along the north (side) façade and employs a niche for the code required egress windows. These windows face one another and views to the adjacent property would be at an angle. The new north facing windows are indicated as frosted glass to ensure the neighbor's privacy. The roof design continues the original form and would have a minimal effect on the light and air provided to the adjacent property. The design of the second story addition takes into consideration the light, air and privacy of the adjacent property. Attachment 4-8 provide various plans and elevations showing the design features described in this report; they include a site plan, floor plans for the first and second floor, side and rear elevation.

Integration of Second-Story Construction

The second-story addition is designed to appear as though it was part of the original house construction, and is well integrated into the design of the existing structure. It carries through the original roof forms and the exterior finishes will match the existing structure. The second-story floor-to-ceiling dimensions are the same as the first-story floor-to-ceiling dimension and the second story is proportional to the first story.

Second-Story Side Setback

According to the Guidelines, the second-story, interior side setback is an average of 10 feet, but shall be no closer than five feet from the side property line. Exception: This requirement would not apply to the following:

- a) Second-story additions to existing residences with current side yard setbacks that are less than 10 feet; provided that the current width of the side yard is not further decreased. A minimum 5-foot setback shall be required; or
- b) Two-story new construction over 2,700 square feet in area (not including garage) with up to 50 percent lot coverage as defined by Article 2 of Title 13 (Zoning Code).

Both of these provisions for exemption from the side yard setback apply to the proposed second story addition. As mentioned previously, the property was developed as a zero lot line home. However, a five-foot setback was originally provided for this home, as indicated on the building permit and boundary survey provided by the property owner. In addition, the proposed residence will be greater than 2,700 square feet in area, with site coverage that is below the 50 percent maximum (49 percent actual) lot coverage. Therefore, the project is exempt from the side yard setback requirement.

Elevation Treatments

Architectural projections are provided along the south side of the building emphasizing the main entry to the residence and the bay window in the dining room. The varied roof forms provide a transition from the first floor to the second floor. The north side elevation incorporates an offset and break in the building plane for the new windows.

Roof Forms

The roof is designed with multiple gables that reflect the original design and character of the home. The addition is lower in height than the existing second story and incorporates the same roof pitch as the original design.

Window Placement

The second-story windows that are necessary to comply with Building and Safety standards are designed within an off-set niche to minimize direct views onto the adjacent property. In addition, a 28-foot setback from the rear property line is provided, where a minimum 20-foot rear yard setback is required.

Consistency in Architectural Design

The design of the addition is consistent with the original architecture of the building and uses matching materials, finishes, decorative details and colors.

Open Space

The Zoning Code standards for the PD zone require that 45 percent of the total site area be preserved as open space and requires specifies areas that are excluded from the required open space, including roof areas and decks. Based on those requirements 51 percent of the lot area is open space. The open space does not include the second story deck and also excludes the driveway area. Therefore, the project does not materially affect the required open space.

Site Coverage

Maximum site coverage is not applicable in the PDR-MD zone.

Parking

A minimum of four parking spaces, consisting of two enclosed and two open spaces, are required for additions resulting in five bedrooms or more. The required open parking may be provided on an individual unit's driveway. The existing residence has a three car garage. The driveway is approximately 24 four feet in length and can accommodate two more vehicles. Therefore, the existing residence exceeds the minimum number of parking spaces required.

ENVIRONMENTAL DETERMINATION

The original project was review for compliance with the provisions of the California Environmental Quality Act (CEQA) and was determined to be exempt under Section 15301 for Existing Facilities. The appeal is not a project as defined by CEQA and no further action is required.

CONCLUSION

The proposed second story addition complies with the development standards for the PDR-MD District and the Residential Design Guidelines. The proposed project is consistent with the Zoning Code requirements, complies with the recommendations in the Residential Design Guidelines and thereby will not have an adverse impact to surrounding properties. Therefore, staff recommends that the Planning Commission uphold Zoning Approval BC 13-00844 subject to the original Conditions of Approval.


ANTONIO GARDEA
Senior Planner


GARY ARMSTRONG, AICP
Economic & Development Services Director /
Deputy CEO

- Attachments: 1. Draft Planning Commission Resolution
2. Appeal
3. Notice of Zoning Approval
4. Site Plan

5. First Floor Plan
6. Second Floor Plan
7. Side Elevation
8. Rear Elevation

cc: Director of Economic & Development / Deputy CEO
Sr. Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Lt. Bryan Glass, Police Department
Staff (6)
File (2)

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING THE PLANNING DIVISION'S ZONING APPROVAL (BC13-00844) FOR CONSTRUCTION OF ADDITIONS TO THE FIRST AND SECOND STORY OF AN EXISTING TWO-STORY RESIDENCE.

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by David Maffei, representing Craig and Michelle Holiday, owners of property located at 3384 Wimbledon Way, requesting a Building Permit to allow construction of an addition consists of 739 square feet of living area to the first floor and 966 square feet of living area to the second floor for a total area of 1,705 square feet; and

WHEREAS, the Planning Division approved the application with a requirement for installation of frosted glass for second story north-facing windows and provided Official Public Notice of Zoning Approval on January 10, 2014; and

WHEREAS, an appeal of the Planning Division's Zoning Approval was filed on January 17, 2014 by Michael York, representing George Youssef, the adjacent property owner; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 10, 2014 and, with all persons having the opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **upholds** Zoning Approval of Building Permit Number BC13-00844 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the development record for Zoning Approval BC13-00844 and upon the applicant's compliance with each and all of the conditions contained in Exhibit B as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a

EXHIBIT A

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-56 (2) because the proposed second story additions that meet the setback standards for the PDR-MD zone, comply with the Residential Design Guidelines adopted by the City Council, and do not materially affect the required open space, site coverage or parking.

The proposed project complies with the Zoning Code as follows. The additions on the ground floor provide a combined side yard setback of ten feet, six inches. A minimum combined side yard setback of ten feet is required. The proposed additions comply with the minimum required front and rear setbacks. The existing front setback is 24 feet from the front property line and the rear setback will be a minimum of 28 feet from the rear (east) property line. According to the PDR-MD standards, five-foot front and rear setbacks are required. The second story is well integrated with the existing house as it incorporates the existing roof design and exterior building finishes. The location of windows does not impose privacy impacts to the neighbors in that the north facing, second story windows would be opaque and angled to avoid direct views to the adjacent property to the north. In terms of the second story windows facing the rear, (east) adequate distance (30 feet) is provided from the neighboring property to limit direct views in to the neighbor's rear yard. An adequate amount of open space is provided (50 percent of the lot) and the standards do not include limits to the maximum site coverage. The residence has an existing three-car garage which is set back more than 19 feet from the front property line to provide open parking spaces on the driveway.

- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- C. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT B

CONDITIONS OF APPROVAL

- Plng.
1. The conditions of approval for Building Permit BC13-00844 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 2. No modification(s) of the approved floor plans, building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.
 3. The second story windows on the north façade of the building shall be opaque/translucent (i.e. frosted) glass.
 4. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.



City of Costa Mesa

- Appeal of Planning Commission Decision/Rehearing - \$1,220.00
Appeal of Zoning Administrator/Staff Decision -\$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name* George Youssef
Address c/o Michael G. York, 1301 Doye St., Suite 1000, Newport Beach, CA 92660
Phone 949-833-8848 Representing George Youssef

REQUEST FOR: [] REHEARING [x] APPEAL [] REVIEW**

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

BC13-00844, January 10, 2014

Decision by: Planning staff

Reasons for requesting appeal, rehearing, or review:

The project impacts the privacy of George Youssef and his family, and the project does not comply with the City's Residential Design Guidelines, including, but not limited to, those concerning privacy, coverage, second-story designs and window placements. The project may not comply in other respects, but the City has declined to provide a copy of the plans.
Received
City of Costa Mesa
Development Services Department
JAN 17 2014

Date: January 16, 2014 Signature: [Handwritten Signature]

*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.
**Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

LAW OFFICE
OF
MICHAEL G. YORK
1301 DOVE STREET, SUITE 1000
NEWPORT BEACH, CALIFORNIA 92660

TELEPHONE: (949) 833-8848
FACSIMILE: (949) 955-3682
EMAIL: york@dslextreme.com

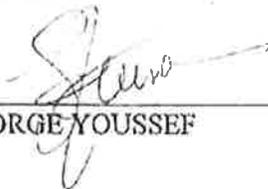
AUTHORIZATION

To: City of Costa Mesa

Re: No. BC13-00844

The Law Office of Michael G. York and its representatives are hereby authorized to represent me in connection with the above-referenced matter.

Dated: January 16, 2014



GEORGE YOUSSEF



**OFFICIAL PUBLIC
NOTICE OF ZONING APPROVAL**

January 10, 2014

**RE: Zoning Approval (BC13-00844)
3384 Wimbledon Way**

The Planning Division has completed its review of the above-referenced project. Based on the following project description, the project has been approved.

PROJECT DESCRIPTION:

The property owner is proposing to construct an addition to an existing two-story residence. The residence is 2,424 square feet in area. The proposed addition would add 739 square feet of living area to the first floor and 966 square feet of living area to the second floor. The total area of the proposed addition is 1,705 square feet.

The proposed addition complies with the development standards of the Planned Development Residential, Medium Density District (PDR-MD zone). A combined, ten foot setback is provided from the side property lines as required by the Zoning Code. The addition is set back a minimum of five feet from the north and south side property lines. The second story is set back five feet from the north property line and 12 feet from the south property line. The addition is exempt from the second story side yard setback of the City's Residential Design Guidelines. A setback of 28 feet from the rear property line is provided. Views to adjacent properties are limited and no privacy impacts are anticipated.

The zoning approval will become final at 5:00 p.m. on January 17, 2014, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or by a member of the Planning Commission or City Council. If you have any questions regarding this notice, please feel free to contact the project planner, Antonio Gardea, at (714) 754-5692 or via email at antonio.gardea@costamesaca.gov.

Distribution:

HOLIDAY CRAIG & MICHELLE
3384 WIMBLEDON WAY
COSTA MESA, CA 92626

YOUNG MARCIA
3388 WIMBLEDON WAY
COSTA MESA, CA 92626

COON STEPHEN E & ANITA J
1144 SALINAS AVENUE
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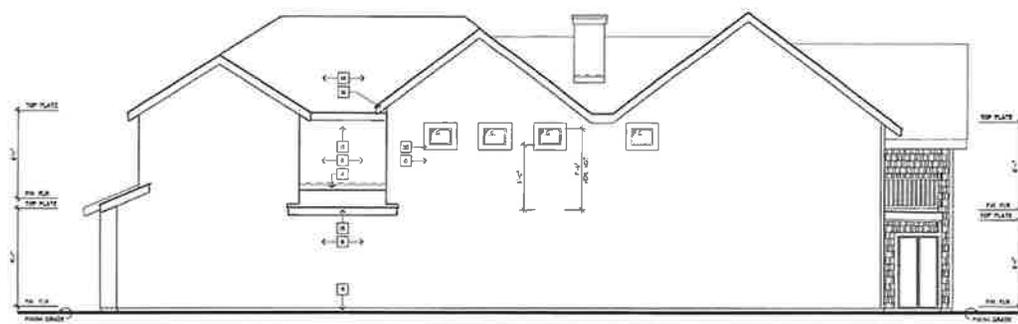
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GEORGE YOUSSEF
1133 DEBRA DRIVE
COSTA MESA, CA 92626

File

-28-



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

ELEVATION NOTES

- 1. ALL ROOF AND GUTTER FLASH AT ROOF TO WALL - SEE DETAIL
- 2. ALL CEILING TO FIN. FLOOR
- 3. ALL EXTERIOR AND INTERIOR FINISHES TO BE AS SHOWN ON SHEET
- 4. ALL EXTERIOR AND INTERIOR FINISHES TO BE AS SHOWN ON SHEET
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- 19. ALL EXTERIOR AND INTERIOR FINISHES TO BE AS SHOWN ON SHEET
- 20. ALL EXTERIOR AND INTERIOR FINISHES TO BE AS SHOWN ON SHEET

HOLIDAY RESIDENCE
 3364 WIMBLETON WAY
 COSTA MESA, CA

NEW EXTERIOR ELEVATIONS

LSA ARCHITECTURE, INC.
 2015 E. Tenth Street, Suite 200
 Costa Mesa, CA 92626
 (714) 441-1111
 WWW.LSA-ARCHITECTURE.COM

SHEET NO. A1.11
 OF



PLANNING COMMISSION

SUPPLEMENTAL MEMO

MEETING DATE: FEBRUARY 10, 2014

ITEM NUMBER 2 PH-1

SUBJECT: APPEAL OF ZONING APPROVAL TO CONSTRUCT ADDITIONS TO THE FIRST AND SECOND STORY OF AN EXISTING TWO-STORY RESIDENCE LOCATED AT 3384 WIMBLEDON WAY

DATE: FEBRUARY 7, 2014

FROM: ANTONIO GARDEA, SENIOR PLANNER Ag

**FOR FURTHER INFORMATION CONTACT: ANTONIO GARDEA, (714) 754-5692
antonio.gardea@costamesaca.gov**

Staff received a request from the appellant to postpone the item to allow more time to prepare for the public hearing. The appellant indicates that he was not provided sufficient notice of the hearing. The purpose of this memorandum is to explain the procedure and noticing requirement for an appeal of a zoning approval in response to the attached correspondence.

Project's Approval and Appeal Period

The building permit application (BC13-00844) which includes a second story addition is subject to the provisions of the Residential Design Guidelines (Guidelines). Projects that meet the Guidelines can be approved through the City's plan check process and the Planning Division is the final review authority. Issuance of building permits are a ministerial action and do not require public notification prior to approval. However, a **notice of approval** for two-story additions is provided by mail to all owners of properties that share a common property line with the approved project. The property owners that receive the notice have seven days, from the date of the notice, to file an appeal.

Appeal Process

The following is a summary of the City's appeal process and the steps taken to process this appeal request.

Code Requirement - Municipal Code Section 2-303 requires that, the appeal be considered at the first regular meeting which follows receipt of the application by ten or more days.

Compliance Action - The appeal was filed on January 17, 2014. The next regular meeting of the Planning Commission was on January 27th, which barely complied with the minimum time frame for scheduling the appeal, so it was scheduled for the subsequent meeting to be held on February 10th.

Code Requirement - Municipal Code Section 2-308 requires notice of the hearing in the same manner as required for the decision subject to the appeal¹. In addition, Code requires that the hearing notice be given to the original applicant and appellant.

Compliance Action - On January 29, 2014, eight post card notices of the Planning Commission meeting were mailed to the adjacent property owners that included the property owner appealing the project.

Compliance Action - On February 4th, an electronic copy of the staff report was emailed to the property owner and the appellant's representative.

The record indicates that the appeal procedure has been followed per Code requirements. The process has provided the appellant with two additional weeks beyond the minimum required time timeline for consideration of the appeal.

Alternatives

After weighing the interests of the applicant and the appellant in this matter the Planning Commission may decide to do the following:

1. Proceed to hear the appeal at this meeting; or
2. Vote to continue the item to February 24, 2014.

Attachments: 1 - Appellant's Request
2 - Municipal Code Excerpts

Distribution: Director of Economic & Development/Deputy CEO
Senior Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (6)
File (2)

¹ The original decision did not have any advanced noticing requirements. The only noticing for the original application was post approval.

GARDEA, ANTONIO

From: Michael York <york@dslextreme.com>
Sent: Thursday, February 06, 2014 4:43 PM
To: GARDEA, ANTONIO
Subject: RE: Staff report for Appeal of Building Permit # BC13-00844

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Gardea:

This email is sent to you as a follow up to our telephone conversation a few minutes ago.

As I pointed out, and you agreed, I was not given notice of the hearing on the appeal. I did not know about the hearing until I saw your email, which I did not see until yesterday. (I did not mention this to you, but I tried to discuss this issue with you yesterday, but you were not in yesterday.)

It is my information that 10 days' notice of a hearing is usually given. In any event, five days' notice is not sufficient time to do what needs to be done to prepare and submit materials in support of our position, and otherwise prepare for the hearing.

Therefore, I request that the hearing be postponed.

Michael G. York
Law Offices of Michael G. York
1301 Dove Street, Suite 1000
Newport Beach, California 92660
Telephone: (949) 833-8848
Facsimile: (949) 955-3682
Email: york@dslextreme.com

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that may be privileged, confidential and protected from disclosure under applicable law. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it from your computer. Thank you.

From: GARDEA, ANTONIO [mailto:antonio.gardea@costamesaca.gov]
Sent: Tuesday, February 04, 2014 9:20 AM
To: 'Craig Holiday'; 'york@dslextreme.com'
Cc: 'dave@grooveconstructioninc.com'
Subject: Staff report for Appeal of Building Permit # BC13-00844

Attached please find a copy of the staff report for the Planning Commission consideration of the Planning Division's Zoning Approval of Building Permit No. BC13-00844.

Please contact me if you have any questions or comments.

Antonio Gardea
Senior Planner

Sec. 2-303. Procedure for appeal.

- (1) Any affected person may, within the time limits set forth in section 2-305, file an application for appeal with the city clerk. Said application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal.
- (2) If the appeal is to be heard by a person or body which conducts regularly scheduled meetings, the appeal shall be considered at the first regular meeting which follows receipt of the application by ten (10) or more days, and which allows sufficient time for the giving of notice as required by section 2-308
- (3) If the appeal is to be heard by an individual or body which does not conduct regularly scheduled meetings, the appeal shall be considered not more than ten (10) days following receipt of the application; provided that the time period may be extended if necessary to allow the giving of notice as required by section 2-308
- (4) An appeal hearing shall consist of a new (i.e., de novo) hearing on the matter by the person or body specified in section 2-309. The appeal hearing shall be based on the following evidence:
 - (a) Any relevant evidence, including staff reports, etc., submitted at the time of the prior decision and at the appeal hearing, and
 - (b) Findings, if any, and decision of the person or body whose decision is being appealed.
- (5) Notwithstanding the provisions of this chapter, there shall be no right of appeal to the city council from a decision by a public officer designated by City Council Policy No. 100-7 on an application for a waiver of fees for use of a city owned public facility or show wagon. A decision pursuant to City Council Policy No. 100-7 shall be subject to California Code of Civil Procedure section 1094.6.
- (6) If the original decision being appealed involved issuance of any permit, license, or other entitlement or approval or requested some action by the city, the applicant for the original decision shall have the burden of proof to support the granting of the requested issuance, approval, or action at the appeal.

Sec. 2-305. Time limitations for appeals and reviews.

All applications for appeals and reviews must be filed, in writing, during regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays, and within the time limits hereinafter set forth:

- (1) For all matters relating to the approval, disapproval or extension of tentative and parcel maps, within ten (10) days from the date of the final decision subject to appeal or review.
- (2) For all other items, within seven (7) days from the date of the final decision subject to appeal or review.
- (3) For all matters requiring approval by the city, its employees, committees, or commissions, and by the redevelopment agency, the time limits for all applications shall begin on the date of the later of the following:
 - (a) Final decision by the city, its employees, committees, or commissions; or
 - (b) Final decision by the redevelopment agency.

If the final day for filing an application for appeal or review falls on a holiday or weekend day when city hall is closed, the application shall be filed no later than the next business day.

Sec. 2-308. Notice of appeal or review.

Notice of the hearing for the appeal or review shall be given in the same manner as any required notice for the hearing at which the decision subject to the appeal or review was made. In all cases for the hearing for an appeal or review, written notice of the date, time, and place shall be given to the original applicant, if any, any prior applicant for appeal regarding the same matter and for appeals the person requesting the current appeal.

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February 10, 2014

Planning Commission
City of Costa Mesa

Re: Appeal of Planning Commission Division's Zoning Approval
Meeting Date February 10, 2014, Item No. PH-1

To the Commissioners on the Planning Commission:

I. Introduction.

George and Sylvia Youssef, the owners of 1133 Debra Drive, the adjacent property to the east of the subject property, and Marcia Young, the owner of 3388 Wimbledon Way, the adjacent property to the north of the subject property, oppose the proposed development.

The development does not comply with the City of Costa Mesa Residential Design Guidelines. The Residential Design Guidelines require that consideration "be given to the effect of proposed development on the light, air, and privacy of adjacent properties." (Residential Design Guidelines, p. 12, ¶ 4(4).) The City of Costa Mesa Zoning Code also expresses concern regarding such issues: There shall be "reasonable visual and acoustical privacy for dwelling units," and landscaping and other items "shall be used as appropriate for . . . the privacy of its occupants, the screening of objectionable views or uses, and the reduction of noise." (Costa Mesa Zoning Code, Chapter V Development Standards, p. 106, ¶ (f)(1).)

In this case, the Approval states that the development will have *no* impact on privacy. (Planning Commission Agenda Report, p. 2.) That is incorrect. Not only will the development have an impact on the privacy on the owners of the adjacent properties, it will have a substantial impact on privacy.

Furthermore, the Approval states that the development will have only "a *minimal* effect on the light and air provided to the adjacent property." (Planning Commission Agenda Report, p. 5 (emphasis added).) That is also incorrect. The development will also have a substantial impact on light and air, and on the view, particularly as to 3388 Wimbledon Way, the adjacent property to the north.

The Approval's erroneous statements that the development will have no impact on

privacy, and will have only a minimal effect on light and air, are likely because facts on which the Approval are based are *incorrect*.

Therefore, the development should not be approved as proposed.

II. George and Sylvia Youssef, the owners of the adjacent property to the east of the subject property.

Mr. and Mrs. Youssef's house has several windows on both the first floor and the second floor of the west side of their house, which is the side of their house that faces the rear of Mr. and Mrs. Holiday's property. (See photo marked "1.") Additionally, Mr. and Mrs. Youssef's patio, which is their outside living area, is adjacent to the rear of Mr. and Mrs. Holiday's property. (See photo marked "2.")

As of now, the rear of Mr. and Mrs. Holiday's house is a substantial distance from the rear of Mr. and Mrs. Youssef's house. There are also no windows on the portion of the second story of Mr. and Mrs. Holiday's house closest to Mr. and Mrs. Youssef. (See photo marked "3.") Under the proposed development, a portion of the addition area of Mr. and Mrs. Holiday's house will be over 16 feet closer to Mr. and Mrs. Youssef's house. Additionally, there will be windows on the second story of Mr. and Mrs. Holiday's house. The windows will permit people to look directly into the windows on the second story of Mr. and Mrs. Youssef's house, down into the windows on the first floor of their house, and down into their patio, their outside living area.

And, yet, the Approval states that the development will have *no* impact on privacy.

The undersigned's review of the plans has been hampered by the fact that the City has declined to provide a complete copy of the plans. However, as best as the undersigned has been able to determine, none of the conditions of the approval of the development address the impact on Mr. and Mrs. Youssef's privacy. (The undersigned is more used to legal proceedings in court than proceedings in front of a planning commission, and recognizes that fact. However, it is difficult to understand how the City can decline to provide a copy of plans that are public record and the subject of an appeal.)

III. Marcia Young, the owner of the adjacent property to the north of the subject property.

The development will have an even greater negative impact on Ms. Young.

The Planning Division claims that Ms. Young's house is two-story house. (P. 3, "Surrounding Property.") That is factually incorrect: Ms. Young's house is a one-story house.

Ms. Young's house is a zero lot line house, with the zero lot line being on the north side

of her house. (See rough diagram marked "4.") The significance of that fact is that there are no windows on the north side of Ms. Young's house. Ms. Young's front door, and sliding glass door and windows into her living area, are all on the south side of her house, adjacent to the north side of Mr. and Mrs. Holiday's house, which is also a zero lot line house. Additionally, Ms. Young's patio, her outside living area, is on the south side of her house adjacent to the north side of Mr. and Mrs. Holiday's house, which is also a zero lot line house. (Contrary to any suggestion in the Planning Commission Agenda Report, both houses are still zero lot line houses.)

Furthermore, the light and air to Ms. Young's house come from, and the view from her outside living area is towards, the southeast direction. (See rough diagram marked "4.") The existing second story of Mr. and Mrs. Holiday's house stretches about 60% of the distance from the front of Ms. Young's house towards the rear plane of her house. However, under the proposed development, the second story of Mr. and Mrs. Holiday's house will be extended an additional 16 feet towards the rear plane of Ms. Young's house.

The effect of the extension of the second story will be to *completely* block the light (except possibly for a brief period during the day) and air to Ms. Young's house, completely block the light from coming into Ms. Young's sliding glass door and windows into her inside living area, and completely block the view from Ms. Young's outside living area. As a result, the south side of Ms. Young's house will be in the shade and cool almost all of the day. (See photos marked "5" to "8.")

Additionally, as of now, there are also no windows on the north side of Mr. and Mrs. Holiday's house. However, under the proposed development, there will be six windows on the second story of Mr. and Mrs. Holiday's house, and at least two of those windows will open, which will permit people to look down into the sliding glass door into Ms. Young's inside living area, and down into her patio, her outside living area.

The Approval's erroneous statements that the development will have no impact on privacy, and will have only a minimal effect on light and air, are likely because facts on which the Approval are based are incorrect. As discussed above, the Planning Division claims that Ms. Young's house is two-story house. That is factually incorrect: Ms. Young's house is a one-story house. Under the circumstances, that is a significant difference. (The Planning Division also claims that there are no windows on the south side of Mr. and Mrs. Holiday's house. That is also factually incorrect.)

In any event, it is submitted that a development may not be approved when it is based on incorrect facts.

Mr. and Mrs. Youssef and Ms. Young oppose the development. They have prepared

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letters, which are attached, and intend to speak at the hearing.

The development should not be approved as proposed.

Very truly yours,

LAW OFFICE OF MICHAEL G. YORK

MICHAEL G. YORK

MGY:cdf

George & Sylvia Youssef

1113 Debra Drive

Costa Mesa, CA 92626

January 27, 2014

To: Planning Commission

City of Costa Mesa

RE: The Proposed Project Addition

Holiday & Michelle Craig

3384 Wimbledon Way

Costa Mesa, CA 92626

Dear Members of the Planning Commission

I am writing this letter to explain in details the reason of our concern about this Proposed Addition requested by our Adjacent rear Neighbor to his residence property.

- 1- No Debate regarding Zoning of the project (side yard sets back Guidelines). Both properties don't share side yard easement bilateral but my property side yard is sharing the above Neighbor set back yard in the fence line.
- 2- My family has been living in this property for 27 years but my neighbor family is just bought and moved in with his 4 children in less than 2 years ago.
- 3- The Craig's family was aware of his existing residence two stories living space size and his land yard space with his neighbors when they moved in their new house.

- 4- My neighbor had the intention to make an addition to his property since the first month of his moving with very aggressive plan.
- A- He demolished and removed additional room (sunglasses room) was attached to his property when he bought his property from previous owner.
- B- He removed and distracted the roots of few large trees in his back yard which kept partial privacy between both properties without any considering air space and environment protection in our community.
- 5- This addition Project of two floors will have a large increase of percentage to his original residence property in (PDR- Medium Density area) community.
- 6- Are you aware that my property already has Five (5) windows, sliding door are facing his neighbor property?
But we still have our privacy since his property has only one floor and the fence is keeping a decent privacy to both properties.
- 7- We would like to pay your attention that 16 years ago my other neighbor Mandel's family who reside on 3401 Deedee drive which is sharing my property fence line from other side also did an addition to his property that was approved without considering our objections. Later on our mayor and city councils sent letter to apologize of oversight and they promise that kind of mistake will not be repeated.
- 8- I am requesting your commission to deny my neighbor project addition because if it approved will have a lot of damage to our desirable value of our community, especially if other neighbors will follow the same in the future.

Thank you,

George & Sylvia Youssef

February 8, 2014

RE: Application BC13-00844

Members of Costa Mesa Planning Commission:

My name is Marcia Young and I reside at 3388 Wimbledon Way. I have owned and lived in this house for fourteen years. I am a 64-year old retired widow with cancer.

I am writing to you today in protest of your approval of the first and second story additions to the residence at 3384 Wimbledon Way. I live in the adjacent home north of the subject property. My current lifestyle would be profoundly impacted by my loss of privacy, sunlight, view, and air circulation.

The lack of all sunlight on the southeast side of my home enhances the possibility of mold, mildew, and spores on my roof, stucco, and sidewalk. Since I am retired, I am home every day, most of the day to enjoy and benefit from the sunlight on the southeast side of my home as I have no windows on the North side. I also benefit from the Vitamin D properties of the sunlight through the southeast window as I have a significant Vitamin D deficiency.

My privacy also would be negatively impacted if you approve the proposed plans for this addition. The two proposed egress windows located inside a niche (deck?) would provide a view into my dining room, living room, and side yard as my home is a one-story dwelling unit (not two stories as indicated on the Planning Application Summary – Page 3 – Surrounding Property).

Their home blocks approximately 60% of my present view facing south. If you approve the proposed addition, then 100% of my view facing south would be blocked.

Last but not least, I would like to point out from a layman's understanding that there appears to be a major error on page 5 under "Building Mass and Form Considerations" (Line 4), "Constructed as a zero-lot line home, there are no windows existing along the south side". I believe that should read north side as my home was originally constructed with a seven-foot sliding glass door and three windows on the south side and I have no windows on the north side. Also, the adjacent property to my north has an original sliding door and windows on their south side.

In conclusion, this proposed addition will negatively impact my present lifestyle by eliminating the southeast sunlight into my home and yard, infringe my view, invade my privacy, and lower

my property value. I urge you to withdraw your zoning approval of these afore-mentioned additions to 3384 Wimbledon Way.

Thank you for your consideration.

Marcia Young

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February 10, 2014

Planning Commission
City of Costa Mesa

Re: Appeal of Planning Commission Division's Zoning Approval
Meeting Date February 10, 2014. Item No. PH-1

EXHIBITS

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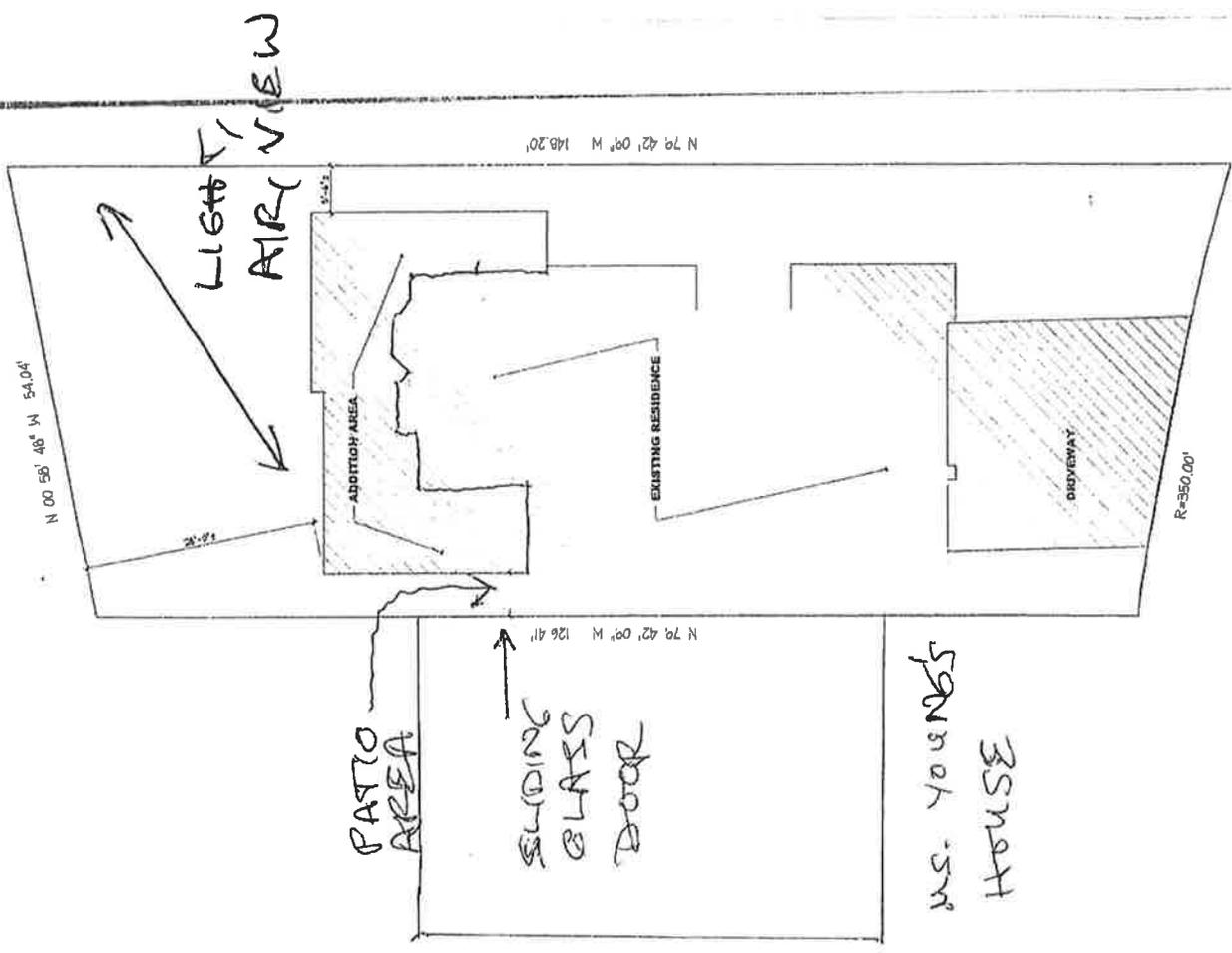


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SITE COVERAGE

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