

RESOLUTION NO. 09/2013

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA UPHOLDING AN APPEAL OF THE PLANNING COMMISSION'S DECISION AND DENYING DESIGN REVIEW PERMIT NO. 13-003 FOR CONSTRUCTION OF A SINGLE FAMILY HOME AT 150 EDISON AVENUE ON CHRISTMAS TREE HILL

WHEREAS, on February 21, 2013, an application for Design Review was submitted to construct a new single-family residence and two-car garage located at 150 Edison Avenue; and

WHEREAS, on February 28, 2013, the application was deemed incomplete for submittal of additional project information and Project Data corrections; and

WHEREAS, on March 7, 2013, a revised project plans were submitted; and

WHEREAS, on March 8, 2013, the application was deemed complete after review of revised plans and information. The Planning Department recommends that this project qualifies for categorical exemption under Section 15303 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on March 12, 2013, story poles for the proposed residence were erected; and

WHEREAS, on March 13, 2013, a public notice for the proposed project was mailed to all residents and property owners within 300 ft. radius of the subject property, and notices were posted in three public places for the March 26, 2013 Planning Commission hearing; and

WHEREAS, on March 26, 2013, the Corte Madera Planning Commission held a public hearing on the item, heard testimony from the applicant and interested parties, and **conditionally approved** the project; and

WHEREAS, on April 5, 2013, an appeal was filed by Shawn Saunders and Niya Dodd-Waddington and supported by a petition signed by 57 neighbors; and

WHEREAS, on April 22, 2013, the project sponsors submitted a revised design (May 7, 2013 revision) that exceeds the Planning Commission's four additional Conditions of Approval; and

WHEREAS, on April 24, 2013, public hearing notices advertising the appeal hearing were mailed to residents within 300 feet of the subject property; and

WHEREAS, on May 7, 2013 the Town Council held a public hearing on the appeal item, and heard testimony from the appellants, the applicant and interested parties and directed staff to draft a Resolution with required Findings upholding the appellants' appeal and denying Design Review No. 13-003; and

WHEREAS, on May 21, 2013 the Town Council held a public hearing to review staff's draft Resolution as directed by Town Council with required Findings upholding the appellants' appeal and denying Design Review No. 13-003, at the conclusion of which the Town Council requested that the findings be modified which modifications are incorporated herein; and

NOW, THEREFORE, BE IT RESOLVED, that the Corte Madera Town Council does hereby **uphold** the appellants' appeal, overturn the Planning Commission's decision, and **deny** Design Review Number: 13-003 (May 7, 2013 revision) for construction of a single family residence at 150 Edison Avenue in Corte Madera, based upon the findings listed below in accordance with Sections 18.30.070 and 18.18.420 of the Municipal Code:

CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") DETERMINATION

This project is exempt from the California Environmental Quality Act (CEQA) and its Guidelines pursuant to California Public Resources Code Section 21080(b)(5) and California Code of Regulations, Title 14, Division 6, Chapter 3, ("CEQA Guidelines"), under Section 15270(a), because this project is being denied.

DESIGN REVIEW: REQUIRED FINDINGS

In order to grant a Design Review approval, the Town Council must make all the following findings required by Section 18.30.070 of the Corte Madera Municipal Code and based on California State law. As explained below, all of these findings cannot be made, thus requiring denial of the project.

1. The project conforms with the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.

Conformance with General Plan Policy LU-2.10 —

"The Town's predominant land use theme and character of low-density residential neighborhoods shall continue to be emphasized and supported through Town land use actions. Key characteristics of the Town's low-density residential development include quality design and construction, variety of architectural styles, and modest scale....Private development shall comply with the Town FAR Ordinance."

- The proposed project is a request to construct a 3,271 sq. ft. single family home (that includes a 787 sq.ft. basement) and an attached 435 sq.ft. garage on a vacant lot that is zoned R-1 Medium-Density Residential District and is located within the Christmas Tree Hill Overlay District. The overall design of the home is contemporary with straight lines and flat roofs. The proposed residence will be sited in a neighborhood with an array of architectural styles. The construction will comply with all of requirements of 2010 California Building Standards Code, the California Green Building Code, and the Wildland-Urban Interface Code. The project maximizes the FAR development allowance. Although no variances to the development standards are triggered, the Town Council finds the gross floor area of the house (which includes the basement and the garage) creates a structure that appears too big as sited on this lot and is not of a modest scale or harmonious with the scale of homes in the vicinity.

Conformance with the Zoning Ordinance —

- The proposed residence meets the development standards of the R-1, Medium-Density Residential District, but not all Design Review Findings can be made for this project and that is described in detail under appropriate Findings below.

Conformance with any applicable Specific Plan —

- The project location is not within an established Specific Plan area.

- 2. The project will not unnecessarily remove trees and natural vegetation, will preserve natural landforms and ridgelines, does not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the natural beauty of the Town.**

A Tree Permit was previously approved for removal of two large redwood trees presently located within the proposed footprint of the house and to provide more sun access to the back yard. A mature Persimmon Tree will be preserved located between 146 and 150 Edison Avenue. Additional plantings providing visual buffering would be planted near the rear property line and along Jean Bean Trail. Because the property is bowl-shaped, the required earthwork will be minimal around the perimeter of the landscape, with some excavation required along the north side of the site. No other natural landforms will be affected and the subject property is not located on a ridgeline. The Town Council questioned whether a Tree Permit should have been issued and finds that the removal of both the majestic redwoods on the property, in conjunction with the design of the proposed project, will adversely affect the natural beauty of the neighborhood and the Town.

- 3. The project will not significantly and adversely affect the views, sunlight, or privacy of nearby residences, provides adequate buffering between residential and nonresidential uses, and otherwise is in the best interests of the public health, safety and general welfare.**

The Town Council finds the proposed residence at 150 Edison Avenue to be located too close to the existing residence at 146 Edison Avenue and to Jean Bean Trail. This close proximity adversely and significantly blocks the views of the persons occupying 146 Edison Avenue as they look out of the south-facing windows of that home. Moreover, the closeness of the two homes significantly erodes and imposes upon the sense of privacy of the residents living at 146 Edison Avenue because residents in the proposed residence could easily view into the aforementioned south-facing window. Additionally, by positioning the proposed home too close to the entry/exit of Jean Bean Trail, cars parked on the proposed driveway apron will interfere with the persons using that trail and block their views of nearby vehicles traveling along Edison Avenue in which right-of-way the subject driveway apron is proposed to be located. This condition imperils the safety of pedestrians using Jean Bean Trail. These conditions could be ameliorated with greater right-side and front yard setbacks of the new residence. A greater front yard setback that lengthens the driveway apron of 150 Edison Avenue would also improve the safety for pedestrians using Jean Bean Trail, since vehicles parking in the driveway apron would be positioned further away from the Jean Bean Trail entryway and further away from the existing driveway access to the one-car garage at 146 Edison Avenue, giving pedestrians a better vantage of oncoming traffic traveling on Edison Avenue.

- 4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site, and in the vicinity, and with the landforms and vegetation in the vicinity of the site, and landscaping shall be based on water conservation designs.**

The Town Council finds the gross floor area of the house (which includes the basement and the garage) creates a structure that appears too big as sited on this lot and is not of a modest scale or harmonious with the scale of homes in the vicinity. The Council finds that reducing the gross floor area would result in a development that is more in scale and harmonious with the

neighborhood.

5. Development materials and techniques will result in durable high-quality structures and landscaping.

All exterior construction materials will utilize durable high-quality building materials and will comply with Town's Wildland-Urban Interface Code and the 2010 California Building Standards Code including the California Green Building Code. Landscaping will be maintained by an automatic drip irrigation system to ensure healthy vegetation.

6. The structures, site plan, and landscaping create an internal sense of order, provide a visually pleasing setting for occupants, visitors, and the general community, are appropriate to the function of the site, and provide safe and convenient access to the property for pedestrians, cyclists and vehicles.

The Town Council finds the proposed residence at 150 Edison Avenue to be located too close to the existing residence at 146 Edison Avenue and to Jean Bean Trail. By positioning the proposed home too close to the entry/exit of Jean Bean Trail, cars parked on the proposed driveway apron will interfere with the persons using that trail and block their views of nearby vehicles traveling along Edison Avenue in which right-of-way the subject driveway apron is proposed to be located. These conditions could be ameliorated with greater right-side and front yard setbacks of the new residence. A greater front yard setback that lengthens the driveway apron of 150 Edison Avenue would improve the safety for pedestrians using Jean Bean Trail, since vehicles parking in the driveway apron would be positioned further away from the Jean Bean Trail entryway and further away from the existing driveway access to the one-car garage at 146 Edison Avenue, giving pedestrians a better vantage of oncoming traffic traveling on Edison Avenue.

7. To the maximum extent feasible, the project includes the maintenance, rehabilitation, and improvement of existing sites, structures, and landscaping, and will correct any violations of the Zoning Ordinance, Building Code, or other municipal violations that exist on the site.

By adding the proposed residence to the neighborhood, the vacant lot will now receive more maintenance and care by its inhabitants. All new construction will be inspected and conform to current building codes. There is no evidence of any municipal violations existing on the site.

8. The design and location of signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, the signs are visually harmonious with surrounding development and there are no illegal signs on the site.

There are no signs on the site, and the project does not include any new signs.

CHRISTMAS TREE HILL OVERLAY DISTRICT: REQUIRED FINDINGS

In addition to the findings required in Section 18.30, Design Review, the Town Council must make the

following specific findings (per Section 18.18.420) for the Christmas Tree Hill Overlay District. As explained below, all of these findings cannot be made, thus requiring denial of the project.

- 1. The proposed development protects the natural and existing landforms and vegetation of the hillside and ridges located on the property. Ridgetop development is precluded if any other location of the parcel is feasible for development.**

A Tree Permit was previously approved for removal of two large redwood trees presently located within the proposed footprint of the house and to provide more sun access to the back yard. A mature Persimmon Tree will be preserved located between 146 and 150 Edison Avenue. Additional plantings providing visual buffering would be planted near the rear property line and along Jean Bean Trail. The subject property is not located on a ridgeline. The Town Council questioned whether a Tree Permit should have been issued and finds that the removal of both the majestic redwoods on the property, in conjunction with the design of the proposed project, would not protect the natural and existing vegetation of the hillside.

- 2. The grading plan is designed to retain the natural and existing features of the land; cuts and fills are minimized; and all graded areas are rounded and contoured to blend with the existing topography. Drainage swales, slopes, vistas and other natural features are retained to the maximum degree feasible.**

Because the property is bowl-shaped, the required earthwork will be minimal around the perimeter of the landscape, with some excavation required along the north side of the site. No undisturbed natural features exist on this vacant lot surrounded on all sides by residential development and roadways.

- 3. Building site locations and access to building sites are selected to reduce visibility of the development from the remainder of the community.**

This relatively small vacant lot is a corner lot located within an intensely developed residential neighborhood. By its inherent characteristics, there is no alternative building site location that could be selected to reduce visibility of the development from the remainder of the community. Although, the Town Council finds the proposed residence at 150 Edison Avenue is still located too close to the existing residence at 146 Edison Avenue and to Jean Bean Trail, thereby causing partial, but adverse, view blockage and privacy impacts from the south-facing windows of 146 Edison Avenue. The condition could be ameliorated with greater right-side and front yard setbacks of the new residence.

- 4. To the maximum extent feasible, access drives have been contoured to minimize the scaring effects of hillside road construction. Access drives should be allowed to be as narrow as traffic generation and public safety (including emergency vehicle access) permit.**

The access driveway apron to the proposed two-car garage is a short driveway distance at the same elevation of the roadway that will not cause scaring of the hillside.

- 5. All slopes are planted or otherwise protected from erosion, including benching or terracing where appropriate.**

Per the Landscape Plan, all slopes will be planted to avoid erosion. A curvature retaining wall is proposed near the rear property line. A bio-swale system behind the retaining wall will filter storm water before entering the Town's storm drain system.

6. Yard setbacks have been determined based on specific site characteristics, line of sight from roadway, and relationships to adjoining properties.

The Town Council finds that the proposed residence at 150 Edison Avenue is located too close to the existing residence at 146 Edison Avenue and to Jean Bean Trail, thereby causing partial, but adverse, view blockage and privacy impacts from the south-facing windows of 146 Edison Avenue. These conditions could be ameliorated with greater right-side and front yard setbacks of the new residence. A greater front yard setback that lengthens the driveway apron of 150 Edison Avenue would also improve the safety for pedestrians using Jean Bean Trail, since vehicles parking in the driveway apron would be positioned further away from the Jean Bean Trail entryway and further away from the existing driveway access to the one-car garage at 146 Edison Avenue, giving pedestrians a better vantage of oncoming traffic traveling on Edison Avenue.

7. Structures and landscaping retain the natural features of the site and character of Christmas Tree Hill as it is viewed from the public roads on the Hill and distant views from off the Hill. Newly planted landscape materials will not ultimately block existing significant views from nearby dwelling units.

Because the property is bowl-shaped, the required earthwork will be minimal around the perimeter of the landscape, with some excavation required along the north side of the site. No other natural landforms will be affected and the subject property is not located on a ridgeline. The Town Council questioned whether a Tree Permit should have been issued and finds that the removal of both the majestic redwoods on the property, in conjunction with the design of the proposed project, will adversely affect the natural beauty and character of Christmas Tree Hill. The proposed species in the Landscape Plan would not ultimately block existing significant views from nearby dwelling units.

8. The proposed development does not adversely affect the health, safety or welfare of persons in or adjacent to the area or endanger property located in the area.

The development will be all new construction utilizing durable high-quality building construction materials and will comply with Town's Wildland-Urban Interface Code. All construction will also comply with the 2010 California Building Standards Code including the California Green Building Code. Although, the Town Council finds a greater front yard setback that lengthens the driveway apron of 150 Edison Avenue is necessary to improve the safety of pedestrians using Jean Bean Trail, since vehicles parking in the lengthened driveway apron at 150 Edison Avenue would be positioned further away from the Jean Bean Trail entryway and further away from the existing driveway access to the one-car garage at 146 Edison Avenue, resulting in pedestrians using that trail having better sight distance to vehicles using Edison Avenue and allowing them to maneuver between the cars parked on these driveway aprons with greater safety.

9. Impacts on neighboring residences are minimized.

The Town Council finds the proposed residence at 150 Edison Avenue to be located too close to

the existing residence at 146 Edison Avenue. This close proximity adversely and significantly blocks the views of the persons occupying 146 Edison Avenue as they look out of the south-facing windows of that home. Moreover, the closeness of the two homes significantly erodes and imposes upon the sense of privacy of the residents living at 146 Edison Avenue because residents in the proposed residence could easily view into the aforementioned south-facing window. These conditions could be ameliorated with greater right-side and front yard setbacks of the new residence.

10. All proposed structures in the public right-of-way conform to the design guidelines of this district and the standards for nonconforming structures in this chapter, and do not restrict safe vehicular and pedestrian circulation.

Except for the driveway apron proposed for 150 Edison Avenue, all landscape, hardscape and fencing that are proposed to be located in the right-of-way will not block pedestrian or bicycle access, and otherwise will not adversely affect traffic or pedestrian circulation. And as to the proposed driveway apron, it creates traffic and pedestrian safety problems as described in Findings 6. and 8.

11. The proposed development and its use are in conformance with the General Plan, the adopted Christmas Tree Hill Community Plan and Christmas Tree Hill Design Review Guidelines.

The proposed project is a request to construct a 3,271 sq. ft. single family home (that includes a 787 sq.ft. basement and an attached 435 sq.ft. garage on a vacant lot that is located within the Christmas Tree Hill Overlay District. The overall design of the home is contemporary with straight lines and flat roofs. For the reasons stated above, the Town Council finds that the proposed project is not in conformance with all the standards and guidelines cited in the Christmas Tree Hill Community Plan and Christmas Tree Hill Design Review Guidelines. Although no variances to the R-1 District development standards are triggered by this proposal, the Town Council finds the gross floor area of the house (including the basement and the garage) creates a structure that appears too big as sited on this lot and is not of a modest scale or harmonious with the scale of homes in the vicinity and, therefore, is not in harmony with the cottage character of Christmas Tree Hill (Section 18.18.405(2)(B)) nor is the building's mass in proportion to the lot size or located on the least visually disruptive portion of the site (Section 18.18.405(2)(C)).

JUDICIAL REVIEW

Unless a shorter statute of limitations applies, the time within which judicial review must be sought is governed by Cal. Code of Civ. Procedure, section. 1094.6.

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I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 21st day of May 2013, by the following vote, to wit:

AYES: Councilmembers: Cock, Condon, Furst

NOES: Councilmembers: Lappert

ABSTAIN: Councilmembers: Ravasio

ABSENT: Councilmembers:



Diane Furst, Mayor

ATTEST:



Town Clerk