



City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014
(408) 777-3223



RECONSIDERATION PETITION

NOTICE: Reconsideration petitions are only accepted for adjudicatory matters that are quasi-judicial decisions by the City Council. The reconsideration petition is subject to the requirements of and must comply with section 2.08.096 of the Cupertino Municipal Code, available in the City Clerk's office or online at http://www.amlegal.com/cupertino_ca/. Please review this form carefully and provide a detailed explanation for each item. Failure to meet the requirements of section 2.08.096 may result in rejection of the reconsideration petition.

1. **Project for which you are requesting reconsideration:**

Application No.: R-2017-33 and RM-2017-39
Applicant(s) Name: Mr. Francis KUN (Tsai Residence)

3. **Contact information for party requesting reconsideration:**

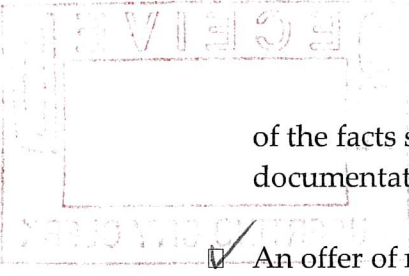
Name: Eric and Cindy Fang Jay (Shayjau) Huang
Address: 21875 San Fernando Ave. 21861 San Fernando Ave.
Phone:
Email: ericdfang2016@gmail.com jayhuang20@yahoo.com

4. **Date of Council meeting considering the project for which you are requesting reconsideration:** 4/21/2020

Reconsideration petitions must be filed within ten (10) calendar days of the date of the Clerk's notice.

5. **Details of grounds for reconsideration (Cupertino Municipal Code Section 2.08.096).** A petition for reconsideration must specify, in detail, each and every ground for reconsideration. Failure to specify the particular ground(s) for reconsideration will preclude any omitted ground(s) from being raised or litigated in a subsequent judicial proceeding.

In addition, the grounds for reconsideration are limited to the criteria listed below. Failure to meet these grounds may result in rejection of the petition for reconsideration. Check all grounds that apply and provide detailed explanations



of the facts supporting each ground for reconsideration (provide supporting documentation and attach additional sheets if necessary):

- An offer of new relevant evidence which, in the exercise of reasonable diligence, could not have been produced at any earlier city hearing.

Explanation of new evidence and why it could not have been produced earlier:

Please see attached letter.

- An offer of relevant evidence which was improperly excluded at any prior city hearing.

Explain relevant evidence and how, when it was excluded at a prior hearing:

Please see attached letter.

- Proof of facts which demonstrate that the City Council proceeded without, or in excess of its, jurisdiction.

Explain facts and how those facts show that the Council operated outside its jurisdiction:

- Proof of facts which demonstrate that the City Council failed to provide a fair hearing.

Explain facts and how those facts demonstrate failure to provide a fair hearing:

Please see attached letter.

- Proof of facts which demonstrate that the City Council abused its discretion by:
- (a) Not preceding in a manner required by law; and/or
 - (b) Rendering a decision which was not supported by findings of fact; and/or
 - (c) Rendering a decision in which the findings of fact were not supported by the evidence.

Explain facts and how those facts demonstrate abuse of discretion related to items (a)-(c):

Please see attached letter.

6. Signature(s)

Sherry Lee Huang

Eric + Cindy Fary

Please complete form, include reconsideration fee of \$319.40 pursuant to Resolution No. 19-038 payable to City of Cupertino and return to the attention of the City Clerk, 10300 Torre Avenue, Cupertino, (408) 777-3223.

Acceptance of a petition by the City Clerk is for timeliness purposes only and does not constitute a determination that the petition meets the requirements for reconsideration under section 2.08.096 of the Municipal Code. The City reserves the right to review petitions after submission and reject those that do not meet the criteria set forth in Cupertino Municipal Code Section 2.08.096.

An offer of new relevant evidence which, in the exercise of reasonable diligence, could not have been produced at any earlier city hearing. Explanation of new evidence and why it could not have been produced earlier.

Thank you city council, planning commissioners and city staff. We really enjoy living in this peaceful, friendly city. We have been Monta Vista Village residents for over 30 years. We support redevelopments in our community. However we want these changes to enhance our community. This project was signed by over 60 neighbors in opposition. Approving this project will change the character of Monta Vista Village. It will affect the Monta Vista Special Area in the next 60 or 70 years or even more. We urge the City Council to reconsider.

This section is divided into 2 parts: the original plan with email from the proposed project owner and the Cupertino General Plan. We thought the original plan would be included in the staff summary report; however, it was excluded.

Initial Plan from Mr. Tsai: submitted with the reconsideration petition. attached in the email on 9/2017

Project house is located on the same street just a few houses away from Blackberry Farm
And 3 blocks from Monta Vista High and Lincoln elementary school.

Four letters submitted to Cupertino City:

1. Initial Email to Erika: update on meeting with Owner
2. Letter submitted to City for Comment Period:
3. Letter submitted to City for Planning Commission Public Hearing
4. Letter submitted to City for City Council Public Hearing. To build like everyone's new construction:
 - build in the front part of lot to align with the neighbors' houses & to be harmonious, compatible, and identical with general neighborhood in scale and character,
 - balcony not be in the backyard looking at neighbors' yard and house
 - neighbors opposing signatures from 11 to 35 now 64

We have provided much evidence, information, facts, google maps, and testimonies.

Please read every letter that we submitted to the City. Please also watch our previous youtube video with the planning commissioners to know this case better. Included are 3 testimonies from Monta Vista Village sharing their thoughts in public hearing. Now is the 21st century. Monta Vista Village Special Area is facing development and redevelopment. Many houses are 70-90 years old and ready to be rebuilt. Monta Vista Village Special Area lot size is very irregular as we mentioned in the meeting. We can't build any style and just comply with the setback. There are many other things that need to be considered. Any decision we make today will affect tomorrow's Monta Vista Village. Be a good design example of redevelopment to your neighbors. Help Monta Vista Village to achieve its vision and goals. Let's work towards doing this!

CUPERTINO GENERAL PLAN (excerpts)

ORGANIZATION OF THE PLAN: "California state law requires that each city and county adopt a General Plan for the "physical development of the county or city",The role of the General Plan is to act as a community's 'constitution',...each topical chapter, or 'Element,' of Community Vision 2040 include topical goals, policies and strategies that function in three unique ways":

- Goal: a broad statement of values or aspirations needed to achieve the vision.
- Policy: a more precise statement that guides the actions of City staff, developers and policy makers

necessary to achieve the goal.

- Strategy: a specific task that the City will undertake to implement the policy and work toward achieving the goals.

NEIGHBORHOOD PRESERVATION: “Cupertino is a city with diverse and unique neighborhoods that vary in character and composition. As Cupertino matures, the city must continue to look at preserving and enhancing its built environment...The City will welcome citizens as partners in making sure that their neighborhoods are the kind in which they want to live in the future.”

MONTA VISTA VILLAGE - A SPECIAL AREA

CONTEXT “The Monta Vista Village Special Area is an older neighborhood which served as an attractive farming and second home community since the late 1800s. It includes several important points of historic interest.....The area was incrementally annexed by the City starting in the 1960s, ending with complete annexation in 2004, from the unincorporated Santa Clara County.....Monta Vista Village has a small town character and ...serve as a travel route for school children to the tri-school area in Monta Vista (Lincoln Elementary, Kennedy Middle and Monta Vista High Schools).”

VISION “Monta Vista Village’s small town character as a pedestrian-oriented, small scaled, mixed-use residential, neighborhood commercial and industrial area will be retained and enhanced with new development and redevelopment....”

GOAL LU-25 Retain and enhance Monta Vista Village's small town character as a pedestrian-oriented, small scale, mixed-use residential, neighborhood commercial and industrial area

An offer of relevant evidence which was improperly excluded at any prior city hearing.
Explain relevant evidence and how, when it was excluded at a prior hearing:

We spent years finding evidence. Our multiple evidence and facts presented on the PPT slides during the public hearing were not addressed:

Monta Vista neighborhood research of compatibility. *There are approximately 38 houses with the same lot size (as Mr. Tsai and ours) built from the 1900s-present in the Monta Vista Village. None have an identical balcony in the rear half of their lot. No one has an identical structured carport in the rear end of the yard.*

Human Rights. *Can anyone peacefully enjoy this kind of design next to your house?*

Cupertino city website balcony picture samples. *Pictures from the city website for house designs show a small balcony at the front of the house facing the street. How come Mr. Tsai is allowed to build a huge balcony in the back of his house? This decision is not in alignment with Cupertino’s proposed balcony placement and design. And does not ensure that the new addition is compatible with MONTA VISTA VILLAGE SPECIAL AREA neighborhood character. There is a reason that balconies are not built well into the lot. They can be detrimental to public safety, health, and welfare.*

Left side elevation plan, Google maps

Neighbors’ concerns and over 60 residents’ opposition evidenced through signing. *The number of signatures grew from 11 to 35 to 57. We visited over 100 neighbors, showing the building plans, hearing their*

thoughts, etc. When so many neighbors come together displaying alarm and concerns towards the project, does this not carry weight and require further examination? Neighborhood and community voices were not heard and acknowledged in a serious manner. We had a map showing each house that signed. It encompasses the MONTA VISTA VILLAGE SPECIAL AREA neighborhood, not just the adjacent neighbors.

Proof of facts which demonstrate that the City Council failed to provide a fair hearing. Explain facts and how those facts demonstrate failure to provide a fair hearing:

The following is a summary of the project events leading up to the City Council appeal:

October 11, 2017: Francis Kun (Tsai residence) applies for a: Residential Design Review Permit (R-2017-33) to consider allowing the construction of a 520 square-foot first-floor addition and an 820 square-foot new second story and Minor Residential Permit (RM-2017-39) to consider allowing an approximately 280 square-foot second-story balcony located at 21865 San Fernando Avenue.

- 9/14/17 Received email from owner to sign a privacy waiver
- 528 s.f. Original First floor
- 742 s.f. Original Second story
- 519 s.f. Original balcony size & exterior stairs near neighbor's fence
- 284 s.f. Revised Balcony size, it is not 280 s.f.
- October 11, 2017 is still in the early stage of this project, staff wrote to consider allowing size.
- false information, misleading

February 21, 2018: The applicant revises the project to address concerns identified by adjacent property owners as follows: A proposed three-car (653 sq. ft.) garage reduced to a two-car (498.5 sq. ft.) garage with the third car space converted to a carport;

- Structure carport was in the original plan along with 3 car garage (so 3rd garage was not actually converted to a carport).
- Square footage was not reduced, rather increased. Sq. ft from the garage incorporated into living space.
- Revised, but did not address our concerns
- False information and Misleading

The first-floor rear-yard setback increased from 41'-7" to 48'; The proposed second story relocated approximately 12' closer to the street; thereby increasing the second-story rear-yard setback from 68' to 80'-9" and the balcony rear-yard setback from 44'-4" to 60'-3"; The balcony reduced by approximately 235 sq. ft., resulting in an increase in the balcony side-yard setback from 10' to 18'-9";

- Original Balcony size 519 sq.ft. not included purposely.
- Writing style worded in a way to describe the project in the best light for the city planners and home owner.
- Not full story, misled

June 24, 2019 The applicant revises the project again in response to comments received during the public comment period. The following revisions were incorporated to the carport design: The width of the proposed carport posts were reduced; and A flat roof line was incorporated into the design by reducing the roof pitch of the carport, resulting in a decrease in height by approximately 4'.

- We asked not to build a carport. He made revisions to the carport.
- Revised twice but does not address our top concerns (still built in the latter half of the lot. Still has a balcony and carport in the backyard).
- Wide lot or corner lot is ok for this design

Staff response:

Setback of over 60' where 20' is required; a side-yard balcony setback of 18'-9" on the west side and 17'-5" on the east side, where only 15' is required. Therefore, the proposed second-story balcony exceeds the established setback requirements.

- Written in a way to make neighbors look bad. Strong personal stance rather than being neutral and objective towards this project.
- As a result Mr. Tsai used the same wording towards us: exceed, far exceed requirement, not content

Our response:

The whole picture was not fully disclosed in the staff report in verbal or written form. Yet the city council was asked to read this draft resolution. This may mislead the council members in knowing/understanding the whole story thus impacting their decisions.

In the "Guidelines for CITY COUNCIL CANDIDATES", page 19 states, "When the Council is not prepared to take definite action or when further study or information is needed, the Council may refer the matter by motion to an individual or group for study. The Council may request that a report be made at a future Council meeting." (Election of November 6, 2018, <https://www.cupertino.org/home/showdocument?id=11810>)

City council Meeting: April 21, 2020

Does anyone know the balcony size? No one answered, the exact balcony size is 20'5"x13'11". Staff replied to various council members that the width was 13' instead of 14' (when rounding). One staff said 13' is less than 150 sq. ft. The council members accepted this and changed the depth to 12' instead of the proposed 10'.

Additionally we hoped the city could look at Google Maps to see where 10' or 12' feet falls in the neighborhood. How does 10' or 12' impact our neighbors? Harmonious in scale with the surrounding neighborhood, visual impacts on adjoining neighbors, etc.?. Your decision may change Monta Vista Village Special Area's future development and residents' life.

Court feeling. During the public hearing we felt more like being at court but worse than in the court. We are facing many defenders (city lawyer, planning department staff and director) and the judges were unclear about many things. Instead, they need to ask the defender side for answers. Because the planning department has approved this project, applicants (Mr. Tsai) have very strong support from the city. We, Cupertino residents, came to seek help from mayor and council members.

Compare (identical, compatible, harmonious) with the newer houses in MONTA VISTA VILLAGE.

Please do not compare new construction with a neighbor's 1940 house before its annexation to Cupertino. Rather please compare with newer houses with the same lot size, same dimensions, balcony and structure carport extending into the rear yard. Many old houses will face remodeling soon, however applicant's new additions will stay until the next rebuild, nearly to the next century. A bad example will definitely hinder Cupertino's growth towards a bright future. This kind of plan does not help the city or anyone except the applicant himself.

We spent days looking at the city web page under property and on Redfin checking every neighbors' lot size,

year built, and if there is any balcony, any carport in MV Village special area. Our purpose is to find houses with the same lot size and how they are/were built or redeveloped as evidence. We spent this much time and energy because we wanted to give the correct, complete evidence. We have lived in Cupertino for many years and could not find a design like this one.

Can the City speak without evidence like party chances are low and handle things in an unclear manner? Please answer with evidence to support your decision:

- How does this kind of house design fit in the Cupertino General Plan?
- How is this kind of house and balcony harmonious in scale to the general neighborhood?
- How does this house design meet the requirements of the guidelines?

Proof of facts which demonstrate that the City Council abused its discretion by:

(a) Not preceding in a manner required by law; and/or

(b) Rendering a decision which was not supported by findings of fact;

and/or

(c) Rendering a decision in which the findings of fact were not supported by the evidence.

Explain facts and how those facts demonstrate abuse of discretion related to items (a)-(c):

City council decision process. In the hearing, we learned that the city council was not sure they had the discretion to make any changes to the plan which has been approved by the planning department. Majority of the time was spent researching and clarifying the guidelines/codes and the council's discretionary authority. Therefore, not much time was left for evaluating the impact of this project to the general neighborhood and whether it is aligned to the long term vision of Monta Vista Village development. A plan detrimental to the neighborhood was approved. City council, please protect this neighborhood and its residents allowing developments that enhance the community. In this general neighborhood over 60 families do not think this project is moving our community in a positive future. Council members could have called a break for further investigation and research. We hope more time can be spent on understanding and analyzing the impact of this expansion to the general neighborhood as well as seeking the evidence to support that the design does or does not meet all guidelines/codes.

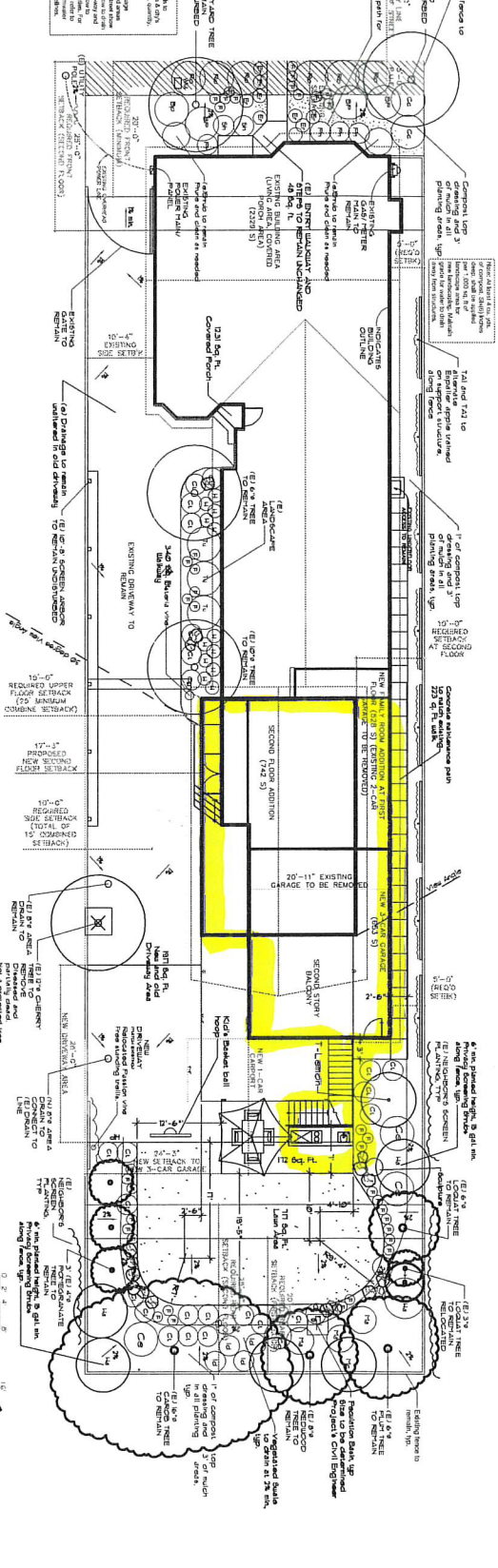
- ❖ **Threat of future air bnb from later owners.** With a big balcony it becomes an easy gathering place for a crowd which heightens the noise, smoking, safety, chance of parties, and risk of strangers viewing everyone's yard. This is detrimental to public welfare, safety, and health. It's not a low intense setting. We urge for preventative measures by not having a balcony in the rear yard. Place it in the front towards the street. Can this be evidence (from Erika staff report)? It is not finalized: "While this is speculative, the City currently has regulations in place regarding Short Term Rental activity. Furthermore, the City is in the process of considering adoption of Short Term Rental regulations, which would limit the number of overnight guests and prohibit commercial activity – including parties and weddings - among other Municipal Code regulations that could be used to restrict such future activities."
- ❖ **Personal opinion involved.** Erika states in the resolution that the city is considering adoption of STR regulations. Again they are speaking of something not confirmed. The planning department attempts to predict the future saying the chance of having a party is low because the balcony is off the bedroom. This is about our community's safety. We were asked to have evidence to prove our stance; however, the city staff simply said the party chance is low and this bypassed the neighbors' concerns. Mr. Tsai's 2nd floor stairs are located in the existing garage at the end of the house. One does not need to go through the main original house. By closing an entryway from the existing garage, it can be a separate STR unit. We cannot speak for the present owner, future buyer or city (not finalized regulation)

regarding the possibility of parties or STR. But we definitely can prevent the tragedy now.

Questions not addressed to appellants or owners. Questions and clarification primarily addressed towards the planning committee and city attorney. Appellants were unable to provide further explanation, defend, or clarify misinformation. Example: When our house was built, privacy plantings were not required in conjunction to window size and height. Older houses around us met all codes of the time. Also the planning department said the balcony is approx 13', but actually is 13'11". They said it is harmonious scale with the neighborhood, not just next door neighbors. We would like to see the facts and evidence. How is it harmonious with surrounding 2 story houses or those with balconies? How does the planning department define these terms (compatible, harmonious, low intensity, identity of neighborhood)?

- ❖ Appeal Reconsideration of the April 21, 2020 public hearing:
- ❖ For 21865 San Fernando Ave

SAN FERNANDO AVENUE



DEMOLITION NOTES

1. Contractor will verify the location of all items to be demolished.
2. Existing street lines in front of property shall be protected in place.
3. Any items to remain shall be protected or removed by contractor and be indicated on drawings.
4. Lay proposed course a path used during demolition and construction. All foot traffic and workhorse traffic to use the path during demolition and construction.
5. Landscape Construction Activities shall be in accordance with the Best Management Practices Guidelines included in the City of Riverside's Storm Water Control Manual.

GRADING NOTES

1. Grading shall be based on existing ground conditions, unless otherwise indicated on drawings.
2. Grading shall be based on existing ground conditions, unless otherwise indicated on drawings.
3. Grading shall be based on existing ground conditions, unless otherwise indicated on drawings.
4. All grades shall be indicated on drawings. It is the contractor's responsibility to verify all grades.
5. Grading shall be based on existing ground conditions, unless otherwise indicated on drawings.

LAYOUT & CONSTRUCTION NOTES

1. All construction shall be in accordance with the latest editions of the International Building Code and the California Building Code.
2. Any structural steel items shall be specified by contractor and submitted as bid alternatives.
3. All items shall be installed in accordance with the manufacturer's specifications.
4. All items shall be installed in accordance with the manufacturer's specifications.

PLANTING NOTES:

1. The contractor shall install all plants to the satisfaction of the City of Riverside.
2. Contractor shall install plants in accordance with the specifications provided on drawings.
3. Contractor shall install plants in accordance with the specifications provided on drawings.
4. Contractor shall install plants in accordance with the specifications provided on drawings.
5. Contractor shall install plants in accordance with the specifications provided on drawings.
6. Contractor shall install plants in accordance with the specifications provided on drawings.
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12. Contractor shall install plants in accordance with the specifications provided on drawings.
13. Contractor shall install plants in accordance with the specifications provided on drawings.

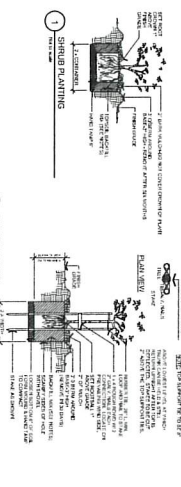
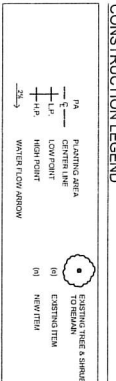
NOTE: REQUIREMENT PRIOR TO FINAL OCCUPANCY

1. THE PROPERTY OWNER SHALL REQUEST A VERIFICATION OF THE PROPERTY'S CURRENT USE AND CARRY OUT THE NECESSARY REVISIONS TO THE NEW PRELIMINARY PLANNING PERMIT TO REFLECT THE PROPERTY'S CURRENT USE AND CARRY OUT THE NECESSARY REVISIONS TO THE NEW PRELIMINARY PLANNING PERMIT TO REFLECT THE PROPERTY'S CURRENT USE.
2. FOLLOWING COMPLETION OF CONSTRUCTION, AN APPLICANT FROM AN AGENCY SHALL CONTACT THE PLANNING DIVISION TO REQUEST A FINAL VERIFICATION OF THE PROPERTY'S CURRENT USE.

PLANT LEGEND

PLANT CODE	PLANT NAME	COMMENTS
L1	Small Tree	...
L2	Medium Tree	...
L3	Large Tree	...
L4	Small Shrub	...
L5	Medium Shrub	...
L6	Large Shrub	...
L7	Small Groundcover	...
L8	Medium Groundcover	...
L9	Large Groundcover	...
L10	Small Flowering Plant	...
L11	Medium Flowering Plant	...
L12	Large Flowering Plant	...
L13	Small Succulent	...
L14	Medium Succulent	...
L15	Large Succulent	...

CONSTRUCTION LEGEND



PROJECT DATA

Item	Description	Quantity	Unit	Notes
1	Grading	120	sq ft	...
2	Paving	1500	sq ft	...
3	Plantings	250	plants	...
4	Structural Steel	10	tons	...
5	Concrete	1000	cuyd	...
6	Foundation	50	cuyd	...
7	Roofing	1000	sq ft	...
8	Interior Finishes	1000	sq ft	...
9	Exterior Finishes	1000	sq ft	...
10	MEP	1000	sq ft	...

These drawings and specifications are the property and copyright of AFLA LANDSCAPE ARCHITECTURE and shall not be used on any other work except by agreement with the Landscape architect. These plans are not to be reproduced, changed, or copied in any form or manner whatsoever, nor are they to be incorporated in a third party's work, from any other source without the written permission of AFLA LANDSCAPE ARCHITECTURE.

1 OF 2 SHEETS

DRAWN: [Signature]

CHECKED: [Signature]

DATE: 08-08-2017

SCALE: 1/8" = 1'-0"

SHEET: 08-01

PLANNING AND BUILDING PERMIT SUBMITTAL LANDSCAPE PLAN

TSAI RESIDENCE
21865 SAN FERNANDO AVE.,
CUPERTINO, CA 95014

AFLA LANDSCAPE ARCHITECTURE

Sunnyvale, California
(408) 242-3054
email: aflalandscapearchitecture@gmail.com
www.aflalandscape.com

REVISIONS	DATE	DESCRIPTION

--- On Thu, 9/14/17, David Tsai <dtsai612@yahoo.com> wrote:

> **From: David Tsai** <dtsai612@yahoo.com>

> Subject: Adding a room for my parents

> To: "Clara Mo" <wenjuan_mo@yahoo.com>, "Bill Mo" <moyehyung@yahoo.com>

> Date: **Thursday, September 14, 2017, 12:42 PM**

> Hi, Mrs. and Mr.

> Mo:

> How are you? This is David Tsai, your neighbor in
> 21865 San Fernando Ave, Cupertino. We are in the planning
> stages of adding a 2nd floor bedroom above our garage in the
> back of our house. This is in preparation for my aging
> parents eventually.

> To improve privacy, we're planning to plant as
> many trees as we can as you can see in the attached
> landscaping plan. However, due the long and narrow lots we
> both have, we are limited in sideyard space as you know and
> don't have enough room to plant more beyond the big lemon
> trees on the side we share with you. I'd like to get your
> OK by signing the attached Privacy Planting Form to help
> support the plan approval with the City. It will help us get
> the plan through quicker with the City.

> If you have any questions, please don't
> hesitate to email or call me. We can certainly also discuss
> further and make changes after it goes through the City. We
> just want to move through the City quickly so City paperwork
> process doesn't drag out the project.

> I'd appreciate it if you can email the signed
> form back to me in the next day or two. You can also fax it
> back to me at (270) 342-8761 if it's easier for
> you.

> Thank you again for your help. Have a blessed
> day!

> In

> Christ, David 408-206-7856

>

>

update of the meeting with 21865 San Fernando Ave owner David Tsai

From: Jay Huang (jayhuang20@yahoo.com)

To: erikap@cupertino.org

Cc: ericdfang2016@gmail.com; wang_t@sbcglobal.net; sgustafsn@gmail.com; claramo@gmail.com;
jayhuang20@yahoo.com

Date: Monday, November 20, 2017, 11:29 PM PST

Dear Erika,

This email is to update you about our meeting with Mr. David Tsai of 21865 San Fernando Ave:

We (Cindy and Eric Fang of 21875 San Fernando Ave, Tai-Tsong Wang of 21909 San Fernando Ave, Jay Huang of 21861 San Fernando Ave) met with the owner, Mr. David Tsai, of 21865 San Fernando Ave on Friday, November 17, 2017 at 3:00 p.m.

We conveyed the following points:

- (1) The second story expansion protruding into the backyard, far exceeds the second story structure lines of all the houses on the north side of San Fernando Ave. It destroys the harmony of the neighborhood.
- (2) The second story addition and balcony structure create privacy issues and it blocks all the views of the neighbors.
- (3) Whether he could move his second story expansion without a balcony to the front part of the building, and stay in line with second story house lines of all the neighboring houses (as shown in the google map of San Fernando Ave).

We invited Mr. Tsai to both his adjacent properties (21861 and 21875 San Fernando Ave.) to take a look at the impact it makes on his neighbors after he expands his house.

Before the end of the meeting, Mr. Tsai mentioned that he has many factors to consider as he proceeds with his expansion project. He heard and understood our concerns and he will put our suggestions into consideration. The conversation ended in a friendly note.

Thank you very much for your time and help, and we hope you have a happy Thanksgiving holiday.

Sincerely,

Eric & Cindy Fang , Tai-Tsong Wang, and Jay Huang

addition to the written comments, staff has had multiple meetings during the comment period with at least five of the property owners to better understand their concerns and to answer their questions.

A summary of the comments is below with Staff responses in italics.

1. Tree Removal: An adjacent property owner is requesting that the existing liquid amber tree located in the front southwest corner of the property be removed as it is causing damage to the pipeline and foundation of the adjacent property.

A Liquid Amber tree is not considered a Protected Tree per the City's Municipal Code and therefore, a tree removal permit is not required. The property owner has agreed to remove the liquid amber tree. However, this is a private arrangement and outside the scope of the current permits desired.

2. Privacy: The proposed second-story addition and deck will create privacy and security issues.

The Single-Family Residential Ordinance requires privacy plantings for all second-story balconies and second-story windows with a sill height below 5 feet that have views into neighboring properties. The property owner is required to install privacy screening plantings along the western, eastern, and northern property lines to comply with this requirement. As a condition of approval for the project, the privacy plantings will be protected by a covenant recorded with the Santa Clara County. The concerned neighbors are aware of this requirement.

3. Carport Design: The pitched-roof of the proposed carport produces a significant intrusion of the backyard views of neighbors. Additionally, the carport is designed in a manner than can easily be closed off without the neighbors' and city's notice, and become interior space.

On June 24, 2019, the property owner and applicant submitted plans for a revised carport to address these comments. The revised carport incorporates a flat roofline and reduces the width of the carport posts. Additionally, the applicant has reduced the roof pitch of the carport by approximately 4 feet.

A building permit and/or planning entitlement is required for all construction projects. In the event the property owner wishes to enclose the proposed carport, the property owner must apply for a building permit and meet the City's development standards and Building Code. If such a future proposal meets the city's standards, it may be permitted. Should any unpermitted construction take place, the City's Building Division can be notified, which will take appropriate action to resolve the issue.

4. Neighborhood Harmony & Property Values: The proposed expansion will negatively stand out in the neighborhood due to the existing short front-yard setback, the height of the existing first floor, the proposed building length, and the proposed location of the second-story and balcony. Additionally, the architectural design of the proposed expansion does not fit in with the modern design of other