



CUPERTINO

**APPEAL FORM**

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NOV 20 2017

CUPERTINO CITY CLERK

1. Application No.: R - 2017-27  
RM- 2017-28

2. Applicant(s) Name: Yunfeng Hou

3. Project Planner: Erika Poveda

4. Appellant(s) Name: Joseph Chou

Address: 18841 Pendergast Avenue Cupertino, CA 95014

Phone Number: (408) 836-5867

Email: Joseph.Chou@aol.com

5. Please check one:

*Note: Do not use this form for Administrative Citation decisions (1.16), Petitions for Reconsideration (2.08.096), or Damage to Public Trees (14.12)*

a. Appeals regarding Title 19 (Zoning) and 14.18 (Protected Private Trees):

- ☒ Administrative decision (14 calendar days after decision to appeal)
- ☐ Planning Commission decision (14 calendar days after decision to appeal)
- ☐ Design Review Committee decision (14 calendar days after decision to appeal)

b. Other appeals:

- ☐ Director of Community Development decision regarding Tentative Maps (18.20) (14 calendar days after decision to appeal)
- ☐ Street Improvements (14.04) (30 calendar days after date of decision to appeal)
- ☐ Code Enforcement regarding Massage Permits (9.06) (5 business days after receipt of notice of decision to appeal)
- ☐ Solicitor's Identification Permit (5.20) (10 calendar days after denial notice to appeal)

6. Date of decision or mailing of notice of decision: November 7, 2017

7. Specifically state the grounds and basis for appeal: The newly proposed two-story house with balcony is sharing the backyard fence with my house. My family has been living in our house for eight years. We enjoy open our windows and having

natural light coming into our house and yard. The second-story balcony gives the occupants the ability to see into neighbors' yards and houses. This is a privacy concern. My family has planted sun loving plants along our backyard fence. If the neighbor plants multiple tall privacy trees, it would affect the growth of our plants. I do not see a study of the privacy trees that would cause the loss of natural light, in particular of sunlight to our property. We do not feel we have to alter our life style to accommodate the new construction.

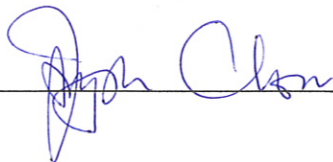
In the past eight years, I have gone to quite a few open houses that featured two-story houses with rear balconies in Rancho Riconada. I have yet to see a house that cannot look into neighbors' properties. It really bothers me that City of Cupertino is allowing such construction that could easily see into neighbors' yards and houses.

When I first filed the protest about the balcony, Yunteng Hou, the owner, met with me on October 29<sup>th</sup>. We talked about my privacy concern, but did not come to an agreement. Mr. Hou and I talked on November 2<sup>nd</sup>. He told me verbally, yes, he went to a few second floor balconies and saw quite a bit of neighbors' properties. However, his architect told him making a design change was quite an effort and my appeal/protest would delay the building process. Mr. Hou followed up with an e-mail, stating he had seen "... much worse setup, and yet, those designs got approved...." This tells me Mr. Hou is aware that the second-story balcony is intruding into neighbors' privacy. Please refer to Attachment 1.

On November 19<sup>th</sup>, I went to two newly completed houses that have similar lot sizes and rear balcony designs as Mr. Hou's project. The owner at 19025 Pendergast Avenue turned down my request to take a look from his balcony. He did state that he could look into many neighbors'.

(Attach additional pages if necessary)

Signature(s):





properties. The owner at 19051 Barnhart Avenue also did not allow me to go to his balcony; he did state that he could see into neighbors' properties; he further stated that since the balcony is high up, there would always be gaps and spaces among the trees to look into neighbors' properties. Both home owners also refused to use my camera to take pictures from the balconies into other properties. I have taken a picture of 19025 Pendergast Avenue's balcony from Barnhart Avenue. It is clear that if I can take a picture of the balcony from one street behind this property, this balcony can see into quite a bit of neighbors' properties. Please refer to Attachment 2.

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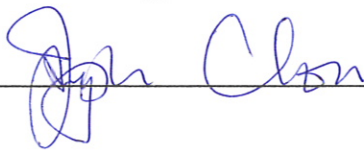
I have taken a few pictures of 19051 Barnhart Avenue's balcony from the next door neighbor, 19041 Barnhart Avenue's backyard. If I can take clear view of the balcony, this balcony can certainly have clear view of the neighbors' yard and open windows. Please refer to Attachments 3 and 4. Attachment 5 is a picture of 19051 Barnhart Avenue's balcony taken from Tilson Avenue, one street behind this house. If I can get a picture of the balcony, this balcony can look into other people's properties.

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The City of Sunnyvale is not approving second-story rear balcony for newly proposed single family construction. This is a result of multiple protests and complaints from the city residents. I feel City of Cupertino has fundamental issues. Yes, there are ordinances, & theories of protecting privacy. However, there is also the reality that people can see from second-story balcony. Privacy trees can be trimmed down. People can use binocular from the balcony to look into neighbors' properties.

(Attach additional pages if necessary)

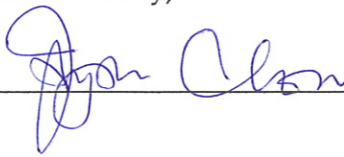
Signature(s):



I want to put on the public record that the appeal hearing committee members should visit five newly constructed houses of similar lot sizes and designs along with the appellants. Rather than talking about theories, let us use our own eyes to check into reality. The building and planning departments should be able to identify these projects in Rancho Riconada.

(Attach additional pages if necessary)

Signature(s):



**From:** Joseph Chou <joseph.chou@aol.com>  
**To:** houyunf <houyunf@gmail.com>  
**Subject:** Re: My house plan  
**Date:** Mon, Nov 6, 2017 9:40 pm

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As long as you are going to build a balcony, I will protest.

I respect your desire, but I am also keeping my principle.

Like I told you when we first met, I am not looking to engage in arguments.

Let us go through the protest and appeal process.

-----Original Message-----

From: Yunfeng Hou <[houyunf@gmail.com](mailto:houyunf@gmail.com)>  
To: Joseph Chou <[joseph.chou@aol.com](mailto:joseph.chou@aol.com)>  
Sent: Mon, Nov 6, 2017 12:01 pm  
Subject: Re: My house plan

Hi,

Just talked with Jeff and he gave me a very good suggestion. I could use solid railing when build the balcony, so that if we sit on the balcony, actually we can see nothing of our neighbors. And it is even better than without the balcony since now we do not have direct view within the room to our neighbor, the only way to see your house is to go out to balcony and stand near the railing, which we all agree that will rarely happen. And once we have good privacy tree coverage, it may not be such a concern any more. What do you think. Thanks.

Yunfeng Hou

On Thu, Nov 2, 2017 at 5:12 PM, Joseph Chou <[joseph.chou@aol.com](mailto:joseph.chou@aol.com)> wrote:

Change of design is not hard. Your architect is pulling your leg. The structural is not done. He can change the design quickly.

Sent from AOL Mobile Mail

On Thursday, November 2, 2017, Yunfeng Hou <[houyunf@gmail.com](mailto:houyunf@gmail.com)> wrote:

Just you said, it may hardly being used, then it would be hardly become an concern. Although it will not cost you too much, our schedule will have to stop during the process. Is there anything we can do to not go through the appeal process? I visited many newly built houses in bay area, and saw much worse setup that neighbors privacy was poorly protected, and yet those designs got approved.

Do you think we can still come up with something rather go through the appeal process? We can come again this weekend. Thanks.

On Thu, Nov 2, 2017 at 3:09 PM, Joseph Chou <[joseph.chou@aol.com](mailto:joseph.chou@aol.com)> wrote:

Just an input. Balcony is similar to moon roof of a car. Nice to have, but hardly use or not at all.

I will do my protest. If I lose, I will not have hard feeling toward you. You and I each have different principles.

Sent from AOL Mobile Mail

On Thursday, November 2, 2017, Joseph Chou <[joseph.chou@aol.com](mailto:joseph.chou@aol.com)> wrote:

Attachment 1

5/10

By the way, do not disclose it is 7 ft tall. Done without city permit.

Sent from AOL Mobile Mail

On Thursday, November 2, 2017, Joseph Chou <[joseph.chou@aol.com](mailto:joseph.chou@aol.com)> wrote:

Your fence is already at the maximum 7 ft height. Cannot not go higher.

Sent from AOL Mobile Mail

On Thursday, November 2, 2017, Yunfeng Hou <[hoyunf@gmail.com](mailto:hoyunf@gmail.com)> wrote:

Hi,

I understand your concern of the balcony, after discussed with my architect, he suggest that we could install 2 feet (or as high as we are allowed) additional [lattice fence](#) on the existing wall to block the direct sight. It will be even more helpful before our new privacy tree grows to required height. Besides, we can also plant things like [boston ivy](#) to fill the the grids of [attice fence](#). It could be on our expense. What do you think?

Best regards

Yunfeng Hou

6/10





Attachment 2





Attachment 3

8  
/10





Attachment 4



Attachment 5