

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 93

OF THE ADMINISTRATIVE HEARING OFFICER OF THE CITY OF
CUPERTINO TO ALLOW A FRONT YARD INTERPRETATION TO
DESIGNATE THE PROPERTY LINE ALONG BETTE AVENUE AS THE
FRONT LOT LINE TO ALLOW FOR A 198 SQUARE FOOT ADDITION
TO THE FIRST FLOOR AND A 980 SQUARE FOOT ADDITION OF A
SECOND FLOOR TO AN EXISTING SINGLE-STORY
RESIDENCE LOCATED AT 10550 BETTE AVENUE (A.P.N 369-26-016)

SECTION I: PROJECT DESCRIPTION

Application No.: INT-2018-01
Applicant: Clayton Johnson (Premiere Builders)
Location: 10550 Bette Avenue (A.P.N 369-26-016)

SECTION II: FINDINGS

WHEREAS, the City of Cupertino received an application for a Front Yard Interpretation to designate the property line along Bette Avenue as the front lot line and to permit a 198 square foot addition to the first floor and a 980 square foot addition of a second floor to an existing single-story residence; and

WHEREAS, the project is categorically exempt from the California Environmental Quality Act (CEQA); and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Administrative Hearing Officer has held at least one public meeting in regard to the application; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the Administrative Hearing Officer finds that:

1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance, and the purposes of the R1 Ordinance; and
The proposed project is consistent with the existing residential land use designations surrounding the site and is consistent with Title 19, Zoning, and Chapter 19.28, Single-Family

Residential (R1) Ordinance, of the Cupertino Municipal Code for setbacks, lot coverage, floor area ratio, and other development standards.

2. The proposed project is harmonious in scale and design with the general neighborhood; and

The interpretation will reinforce the existing residential building relationship as established by the original development when the property was in the City of Cupertino in 1959, eliminate the non-conforming status of the existing residence under the Cupertino Municipal Code, maintain the frontage orientation of the subject site and surrounding properties, and improve the relationship of existing residences and future developments.

3. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare.

No changes to site access are proposed. Therefore, there is no change or impact to the surrounding neighborhood due to access to and from the site. The proposed project meets all required setbacks of the R1 zoning district and the Zoning Title. Therefore, the proposed project will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony, and other evidence submitted in this matter, the Hearing Officer of the Administrative Hearing does determine that, Application No. INT-2018-01, is categorically exempt from CEQA; and approves said application; and

That the subconclusions upon which the findings and conditions specified in Section III of this Resolution are based and contained in the public meeting record concerning Application No. INT-2018-01 as set forth in the Minutes of the Administrative Hearing Meeting of August 9, 2018, and are incorporated by reference herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

1. APPROVED EXHIBITS

Approval is based on the plan set entitled, "Bette Ave Residence Addition, 10550 Bette Ave., Cupertino, CA 95014," drawn by D-Square Studio dated March 1, 2017 consisting of eight (8) sheets labeled A-0.0 through A-5.0; and the boundary survey entitled, "Site Plan/Boundary Survey" certified by John K. King dated April 19, 2018 consisting of one (1) sheet; except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

The conditions of approval set forth shall be incorporated into and annotated on the building plans.

3. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements, and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no R-2018-20, shall be applicable to this approval.

5. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

6. FRONT YARD INTERPRETATION

An Interpretation is granted to allow the lot line adjoining Bette Avenue to be considered the front lot line. Any future additions or modifications to the residence shall be consistent with the interpretation of the lot line adjoining Bette Avenue as the front lot line.

7. INDEMNIFICATION

Except as otherwise prohibited by law, the applicant shall indemnify and hold harmless the City, its City Council, and its officers, employees and agents (collectively, the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant to attack, set aside, or void this Resolution or any permit or approval authorized hereby for the project, including (without limitation) reimbursing the City its actual attorneys' fees and costs incurred in defense of the litigation. The applicant shall pay such attorneys' fees and costs within 30 days following receipt of invoices from City. Such attorneys' fees and costs shall include amounts paid to counsel not otherwise employed as City staff and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City.

8. NOTICE OF FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

PASSED AND ADOPTED this 9th day of August, 2018 at a noticed Public Meeting of the Administrative Hearing Officer of the City of Cupertino, State of California, held by the Director of Community Development, or his or her designee, pursuant to Cupertino Municipal Code Section 19.12.120.

ATTEST:

APPROVED:

/s/Gian Paolo Martire
Gian Paolo Martire
Associate Planner

/s/Benjamin Fu
Benjamin Fu
Assistant Director of Community Development