

Planning-Commission - Fw: PC Mtg. 7/8/15 Item 5

From: Janet Davis <jadjadjad@sbcglobal.net>
To: Planning-Commission Planning-Commission <planning-commission@smcgov.org>
Date: 6/26/2015 12:30 PM
Subject: Fw: PC Mtg. 7/8/15 Item 5

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To: "planning-commission@smcorg.gov" <planning-commission@smcorg.gov>
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Sent: Friday, June 26, 2015 11:49 AM
Subject: PC Mtg. 7/8/15 Item 5

OBJECTION TO PLANNING COMMISSION MEETING JULY 8 2015, ITEM 5

The Denari's seek a Use Permit

5. **Owner:** Nihal Denari
Applicant: Gregory Denari
 File No.: PLN2014-00311
 Location: 638 18th Avenue, North Fair Oaks
 Assessor's Parcel No.: 060-144-150

Consideration of a Non-Conforming Use Permit, pursuant to the San Mateo County Zoning Regulations Section 6137, to: (1) legalize a bedroom addition with a 4'8" side yard setback where a minimum 5' setback is required at the rear of a legal non-conforming single-family residence; (2) allow a one-car garage to remain where two covered parking spaces are required; and (3) legalize an illegally constructed detached accessory structure located 10" and 1' 6" from rear and side property lines, respectively, where minimum 3' setbacks are required. Application deemed complete September 19, 2014. Please direct any questions to Senior Planner, Dave Holbrook at 650-363-1837 or dholbrook@smcgov.org

The above County summary indicates at least six specific code violations. It is not stated whether the accessory structure has been used for human habitation as is common in NFO, or whether this is clearly only a garden shed. A Use Permit is essentially a "Get out of Jail Free Card" because once given it is highly unlikely to be withdrawn.

This house was built in 1938 when residences typically had 1 or 2 bedrooms and only 1 bathroom. The houses in that area were typically less than 1000 sq. ft. The web lists this residence as being 3 bedroom, 2 ba. and 1200 sq. ft. on a 5350 sq. ft. lot.

The owner is or was, a Kaiser physician who currently resides at 20300 Orchard Road Saratoga 95070-5937 and the property on 18th Ave is a rental investment.

The real estate listing below shows the illegal addition referred to in point (1) of Holbrook's summary. The structure is non conforming because, *even if the 3rd bedroom had not been built*, it is non conforming in that it *should have had two covered parking spots*. Anytime a bedroom is added, additional covered parking is required. In addition, adding a second unit (if that is what the accessory building constitutes) requires another parking spot, i.e. three where one exists.

638 18th Ave, Menlo Park, CA 94025

3 beds 2 baths 1,200 sqft

Off Market

Zestimate®: \$1,028,238

[Update my Zestimate](#)

Rent Zestimate®: \$3,807/mo

Est. Refi Payment

\$3,912/mo

[See current rates on Zillow](#)

Sun filled cottage close to downtown Palo Alto and Menlo Park with high ceilings, fire place and master suite **which is not permitted as a bedroom**. Formerly a covered patio. Additionally, a detached 1 car garage, and large back yard. **Short Sale**, bring all offers...won't last long!

Lot: 5,227 sqft Single Family Built in 1938 Last sold: Jul 2009 for \$614,500 Parking: Garage - Detached, 310 sqft

To add to these problems a SWN (2008-00011) was issued 2/25/08 to deal with the converted patio. However, **the County did not see fit to do any inspections** and the property sold 7/29/09 for \$614,500. **Nothing has been done by the County according to Accela for the last seven years!!** From the records it appears that subsequent to this, an additional structure of some kind was constructed in the back yard with no permits. Checking the Assessor files it is shown that the owner has only been paying assessments for sewer and garbage at the **Single Family rates during the period of ownership**. This may or may not be appropriate depending on the actual number of rental units that actually exist.

Now it appears that the Denaris want to divest themselves of this investment to avoid penalties. To optimize their ROI they seek to legalize the past illegalities (4/25/2014 Building permit application 2014-00722) by attempting to use Ordinance 6137. This would **except any restriction to the continuation, enlargement, restoration or replacement of a non conforming use, structure or situation. i.e. let them off the hook, scot free, for past illegalities**. It would also be to the advantage of Planning and Building in that this would cover up the fact that they did nothing for 7 years.

HOWEVER: This provision is subject to **Findings** being made that this will not be detrimental to public welfare, (c) is as nearly in compliance as possible with zoning regulations currently in effect and (d) does not constitute the granting of special privileges. The Planning Commission does have the power to impose conditions. However, the existence of at least six separate variations from that which is permitted is by no means “nearly in compliance.”

It is most certainly not in the public interest to compound the existing parking problems in NFO. The Google pictures for this location show cars parked along the road, not even on the property. It is patently obvious that with 3 bedrooms in the main house and a possible additional unit in the back, there will be at least 4 or 5 vehicles for this rental property. It is obvious that this is a special privilege accorded to a scofflaw that is not accorded to other property owners that pay the right taxes and obey the zoning laws.

In addition, **it would be a totally discriminatory and arbitrary application of the rules**. Last winter when Sr. Christina acquired property on Marlborough that had (well built) illegal units, she was refused permission to use them for homeless families living on the streets, and told that they had to be razed. Also, given the blatant harassment that many homeowners in The Avenues area of NFO are experiencing with respect to sewer signs offs, smoke detector inspections etc. this is further evidence of discriminatory enforcement that is rampant throughout the county.

BOTTOM LINE: By granting this request you would be according a special privilege to someone trying to maximize ROI by unloading an investment, who has failed to observe the law, and possibly avoided paying the correct amount of property taxes, permit fees, garbage and sewer fees. In addition it is an indictment of the Building and Planning Dept. in that they did nothing about known illegalities for 7 years and now are attempting to cover that up by employing Ordinance 6137 that is not applicable to the current situation. THIS SUBMISSION SHOULD BE DENIED. THE OWNER SHOULD BRING THE PROPERTY INTO COMPLIANCE, SHOULD PAY BACK TAXES AND REFUND ANY RENTS PAID TO TENANTS OCCUPYING ANY ILLEGALLY CONSTRUCTED FACILITIES.