

Location:	963 Grosvenor Pl. (APN: 011 088900902) (See map on reverse)
Proposal:	Appeal of the Zoning Manager's Administrative Approval of a Regular Design Review application to alter and add additional building floor area to a single-family residence
Appellant:	Steven Garrett / (415)613-4227
Applicant:	Jack Backus / (510) 393-9699
Planning Permits Required:	Regular Design Review for residential additions over 1,000 square feet.
General Plan:	Detached Unit Residential
Zoning:	RD-1 Zone
Environmental Determination:	15301-Existing Facilities; and 15183-Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	OCHS Rating: D2+
City Council District:	2
Status:	Application approved by the Zoning Manager on March 28, 2018, and subsequently Appealed on April 9, 2018
Staff Recommendation:	Deny the Appeal and uphold the Zoning Manager's Approval of the Regular Design Review Permit.
Finality of Decision:	Final (Not administratively Appealable Pursuant to OMC Sec. 17.132.030)
For Further Information:	Contact case planner Danny Thai at 510-238-3584 or dthai@oaklandnet.com

SUMMARY

On May 23, 2017, Jack Backus (Applicant) filed a Regular Design Review application (Case File PLN17198) at 963 Grosvenor Place. The originally noticed project would alter and add 2,070 square feet of floor area, for a total of 3,537 square feet, to an existing 1,453 square-foot single-family residence on an upsloping interior lot. The project was later revised and resubmitted based on neighborhood comments with a downscaled floor area addition of 1,860 square feet of floor area, for a total of 3,328 square feet. On March 28, 2018, the Zoning Manager issued an Administrative Approval for the project (Attachment A). The Zoning Manager found that the project was consistent with the Planning Code and General Plan, Design Guidelines (Guidelines) for One and Two-Unit Residences (Guidelines) and met the required Findings for approval. In addition, the Zoning Manager determined that the project would not result in a physical impact on the environment, and was therefore, exempt from the California Environmental Quality Act (CEQA).

On April 9, 2018, Steven Garrett (Appellant), the owner of the adjacent property located at 967 Grosvenor Place, filed a timely appeal (Attachment B). Per Section 17.132.020 of the City of Oakland Planning Code, the Appellant must state where an error or abuse of discretion was made by the Zoning Manager or where the Zoning Manager's decision is not supported by evidence in the record. The arguments raised by the Appellant include an incorrect Zoning Manager's interpretation of the Guidelines; the proposal not meeting the Regular Design Review criteria with respect to the scale, bulk, mass and height of the new building; neighborhood contextual analysis used; and solar, privacy, and view impacts to the adjacent neighbor. In addition, the Appellant believes the project is not in conformance with the General Plan and is challenging staff's Environmental Review Determination and the use of CEQA Exemptions. The arguments are summarized below in the *Basis for the Appeal* portion of this report, along with City staff's response to each argument.

Staff recommends that the Residential Appeals Committee deny the appeal, thereby upholding the Zoning Manager's approval on the grounds that the appellant fails to demonstrate that the Interim Zoning Manager's decision was in error and was not supported by substantial evidence in the record.

BACKGROUND

The project was originally submitted on May 23, 2017. The Applicant's original proposal included a 2,198 square feet addition for a total of 3,682 square feet. The existing turret bay would have been reduced in size, the second story volume on the uphill side removed, the third story setback from the front only 5', and the existing flat roofs with a parapet changed to hip roofs. On July 20, 2017, Zoning staff requested the applicant make changes to the plans including providing a solar access impact diagram, identifying actively used indoor areas, minimizing solar access impacts, and reducing bedroom count to four or fewer. All requested changes were made and submitted to Zoning staff on August 11, 2017.

Existing 1,483 Square Feet	Original Submission	1 st Public Notice	2 nd Public Notice / Approved
Additional Square Feet	2,198 Square Feet	2,070 Square Feet	1,860 Square Feet
Total Square Feet	3,682 Square Feet	3,537 Square Feet	3,328 Square Feet

The project was noticed to the public on September 11, 2017 (Attachment C). Zoning staff received communications from at least twenty-four community members via in-person meetings, phone calls, and e-mails. The comments objected to the project in respect to the height, scale and architectural form, the shadows that would be cast, reduction of views to an adjacent neighbor, insufficient parking proposed, the large scope of work, an insufficient public noticing process and the effect the construction process would have on the neighborhood. Zoning staff had numerous telephone conversations and impromptu in-person meetings to discuss and explain applicable Zoning regulations and Guidelines to concerned neighbors at the Zoning offices.

Zoning staff considered all the comments and determined most of the concerns were addressable with a design revision.

The Applicant changed the project design to address issues raised by staff and the neighbors and resubmitted plans on November 14, 2017. Changes included:

1. A pitched roof to flat roof design. This resulted in a building with reduced height, bulk and mass, reduced shadow impacts and a design more consistent with the architectural of the existing building.
2. Elimination of the overhanging eaves and reincorporate a parapet back into the design.
3. Re-emphasis on the turret bay window design element carried which along with the parapets was a character-defining feature of the building,
4. Retention of the second story volume above the garage but setback further,
5. Stepping the 3rd story 14'-11.5" back from the front façade of the house, and
6. Reduction of floor area to meet the 0.50 FAR limits.

The project was also presented, on several occasions, to the Lakeshore Homeowners Association (LHA), an independent association with no affiliation with the City of Oakland governance. Zoning staff was not in attendance at any LHA meetings. However, Zoning staff made the 300-foot mailing list available to the Applicant so that property owners within the LHA could attend in addition to the typical LHA turnout. The LHA voted to approve the project and upheld such decision at the December 20, 2017 meeting.

On January 19, 2018, the project was noticed publicly for the second time (Attachment D). During the second public notice period, four community members contacted Zoning staff. Despite the changes made to the proposal, the comments echoed the sentiment of the first public notice. Zoning staff met with the Applicant and suggested additional minor changes to the project to address neighbor concerns. These changes included

added landscaping in front of the home and obscuring window visibility between neighbors. The Applicant complied with the requests.

On March 28, 2018, the Zoning Manager issued an Approval letter for the project as described in more detail below.

NEIGHBORHOOD CONTEXT

The neighborhood consists of a variety of high-quality architectural styles. The prevailing neighborhood development pattern includes large, two to three story single-family homes on medium size parcels. Buildings are generally located outside the front yard setback and medium side yard setbacks are provided as well as large rear yards for open space. Homes are largely consistent in terms of location on the lot. Driveways lead to one to two-car attached garages at the front or along the side of the building. The homes are a mix of architectural styles including Tudor, Mediterranean, and Colonial as well as more modern interpretations. Most neighborhood homes incorporate the use of stepped and/or staggered volumes or projected and recessed masses. Contextual roof forms include flat roofs, sheds, hip, gable, A-frame, and cross-gable roofs. Stucco siding with heavy use of architectural detailing such as arched windows, grid windows, decorative trim, eave and trim brackets, medallions, moldings and emphasized gables dominate the neighborhood context.

PROPERTY DESCRIPTION

The subject property at 963 Grosvenor Place is a 7,150 square foot upslope parcel with a 28% grade located on an interior lot. The property also has a slight cross-slope. The property is located between the Appellant's property 967 Grosvenor Place to the north and 959 Grosvenor Place to the south. The existing house is 1,483 square feet on 2,198.8 square foot building footprint. A mature Oak tree is located at the rear of the subject property.

PROJECT DESCRIPTION

The project consists of an alteration to the building envelope of an existing single-family house (Attachment D). This includes the addition of 476 square feet in the 1st floor (noted as lower floor on the plans), a 225 square foot addition on the 2nd floor (noted as first floor on the plans), and 1,160 square foot 3rd-story addition (noted as second floor on plans) 14'-11.5" from the front facade. Approximately 1,860 square feet of floor area is being added for a total of 3,328 square feet of floor area in the proposed project. Most of the new floor area is a result of the conversion of nonconditioned space on the 1st floor into habitable floor area, the upper story, and rear addition. The height would be increased in the midsection of the building from 20'-10.5" to 31'-4" due to the upper story addition. The rear of the house will extend horizontally rearward approximately 5'-10' and vertically from 15'-8.5" to 25'-2". A contemporary Mediterranean/Pueblo Revival architectural style like the existing house will be utilized. Required off-street parking spaces are satisfied by providing two Zoning compliant parking spaces as required in the RD-1 Zone.

GENERAL PLAN ANALYSIS

The subject site is in the Detached Residential land use classification per the Land Use and Transportation Element (LUTE) of the City of Oakland's General Plan. The Detached Unit Residential classification is intended to create, maintain, and enhance residential areas primarily characterized by detached, single-unit structures. The project meets the intent of the General Plan classification maintaining the single-family home but with interior remodeling and an addition to increase the square footage. The project meets the following LUTE goals and policies:

Objective N3 states: "Encourage the construction, conservation, and enhancement of housing resources to meet the current and future needs of the Oakland community." This proposal to add building footprint and floor area

to an existing single-family dwelling will enhance the resource in a manner consistent with the Zoning regulations and the building's architecture.

Objective N3.8 states: "High-quality design standards should be required of all new residential construction." This building addition and remodel will be conducted in a way that is high quality in its architectural design and consistent with the building's historic style and materials. Furthermore, the proposal is complementary to the variety of high-quality single-family homes in the neighborhood.

Objective N3.9 states: "Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure." The proposed addition is largely within the building footprint. As discussed below in the *Basis for the Appeal* section, the upper-story addition will not unreasonably affect the neighboring homes' access to desirable sunlight, scenic views or privacy. Sufficient open space is provided in the rear yard.

Objective N6.1 states: "The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes." The project proposes a single-family house with a large, useable floorplan so that potential residents can enjoy the Crocker Highlands neighborhood. As discussed below in the *Zoning Analysis* section, the project required no Variances, is consistent with the Zoning regulations in terms of floor area, building footprint, and floor area ratio, and is consistent with other neighboring properties within the context area in terms of building height, scale, and bulk.

Objective N7.1 states: "New residential development in Detached and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development." As discussed below in the *Basis for the Appeal* section, the project is consistent with other neighboring properties within the context area in terms of building height, scale, and bulk. The project ranges from two-three stories. The project is similar to the scale of the surrounding development. Homes in the area are of high-quality materials, unique, with prominent architectural detailing but no consistent architectural style. This project is also high quality in its detailing and will enhance the existing and desired character of the surrounding development.

It should also be noted that the General Plan contains many policies, which may in some cases address different goals, and thus some policies may compete with each other. The Zoning Manager and the Residential Appeals Committee (RAC), in deciding whether to approve the proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan.

ZONING ANALYSIS

The intent of the RD-1 Zone is to create, maintain, and enhance areas with detached, single unit structures. Desirable neighborhood characteristics include two-story to three-story single-family homes with landscaped front yards, prominent entries and notable architecture detailing. The construction of a third-story addition maintains a single-unit structure for a family to use.

Below in Table 1 is a summary of the project between submittal of the project and the Zoning Manager's approval based on staff and neighbor concerns.

Table 1: Massing Context

*	Regulations	Originally Noticed Proposal	Second Noticed Proposal
Permitted Density	1 unit	1 unit	1 unit
Front Setback	5 feet for a project site with a % street to setback gradient greater than 20%	19'-11 1/2"	19'-11 1/2"
Side Setback	5 feet or 10% of lot width, whichever is greater	Minimum 5'-2" Side Yard Setback	Minimum 5'-2 3/4" Side Yard Setback
Rear Setback	20 feet	47' adjacent to the Appellant 69'***	43'-8 3/4" adjacent to the Appellant 62'***
Maximum Wall Height for Primary Building	32 feet	32'	32'
Maximum Pitched Roof Height for Primary Building	36 feet	33'***	N/A with flat roof but overall height is 32'
Maximum Height from Finished or Existing Grade (whichever is greater) Within 20' of the Front Property Line	24 feet	15'***	22'***, ***
Maximum FAR for 28% slope lot	0.50	0.53 FAR	0.49 FAR
Maximum Lot Coverage	40%	23.06%	25.39%
Minimum parking spaces per unit	2	1 garage space, 1 tandem driveway space = 2 parking spaces but garage parking does not meet the Zoning minimum parking dimensions	1 garage space, 1 tandem driveway space = 2 Zoning compliant parking spaces

*Note dimensions were rounded to the nearest foot unless noted, and the lot is an irregular shape so the dimensions above represent the more intensive situation of the Zoning regulation.

** Notes where the most intensive situation is on the side not adjacent to the Appellant.

***Notes that this represents the existing turret condition.

BASIS FOR THE APPEAL

The Appellant filed a timely appeal (Attachment B) of the Zoning Manager's approval on April 9, 2018. The appeal is based on the belief that the project conflicts with the appropriate application of Zoning regulations, Guidelines, and CEQA Environmental Exemptions, but also that the project is detrimental to the surrounding neighborhood as a whole. The claim is rooted in the Zoning Manager's errors, abuses of discretion and lack of

substantial evidence regarding various issues but specifically, the project is out of scale for the neighborhood and that the increase in floor area will increase vehicular use of the street.

The following is a condensed list of the specific issues raised in the appeal along with staff's response to each point. The list of issues does not match the order submitted by the applicant numerically as some points were broken up into sub-points for the purposes of a direct response and/or clarification. The basis for the appeal is shown in bold text and the staff response follows each point in regular type.

1. The project is not well related to the surrounding area in terms of setting, scale, bulk and height.

The 963 Grosvenor Project looks strikingly similar to the Design Review Manual's example of a home that is considered "conspicuously large" and "disruptive" of the sample neighborhood. Both [the example in the Design Review Manual and the proposed project] are larger than the other homes, both are bulky, and both are about a story taller than adjacent homes, and both have step backs that do little to alleviate these problems. These issues are even more evident when reviewing pictures of the current contextual roofline for the homes adjacent to 963 Grosvenor.



Figure 1 Left: "Conspicuously large" home example in the Guidelines 5.11. Right: Front Isometrics of proposal at 963 Grosvenor Pl

The Zoning Manager's approval letter stated the project is related to their surrounding area in terms of setting, scale, bulk, and height. The letter stated:

"There is a consistent neighborhood building height between two to three stories. The two prominent massing treatments used in the area include stepped massing and differentiated forms. Stepped massing involves the setback of an upper-story from the front-most portion of the building volume. Differentiated massing involves a partial projection of a building at the front to minimize the remaining portion of the building's bulk, scale, and height.

Stepped volumes on the existing building include the one-story garage, two and a half story bay turret projection, and the second story recessed room at the front right to reduce the mass and bulk. The proposed project uses this same strategy by stepping the addition back approximately 15' from the front façade in a similar manner as the homes at 940 and 968 Grosvenor. The three-story portion is only for about 15' in the middle of the building envelope. This design is like many other houses in the area including 940, 953, 972, 976, 982, and 990 Grosvenor which have three-story massing or volume elements. As such, the design is not significantly larger than other homes in the neighborhood. Finally, the project's design reduces the mass and bulk better than nearby houses on the same block such as 976 and 979 Grosvenor Place which are boxy and only rely on architectural detailing.

The Zoning Code regulates allowable building area through lot coverage, setbacks, and height maximums as well as compliance with the City Guidelines. The project is well within the allowable building envelope based on these factors and, as discussed below, is consistent with the Guidelines. If staff based the allowable sq. ft. solely on existing neighborhood home square footage, additional floor area would never be permitted and our housing resources never enhanced."

Staff has not changed its position regarding the project's relation to setting, scale, bulk, and height. The Finding in the approval letter remains accurate. Specific responses to the appellant regarding setting, scale, bulk, and height are addressed elsewhere in this staff report:

- The project's size is addressed in the sub-point of Argument 1 and 5.
- Staff inadvertently referenced an incorrect address in the decision letter and addresses this in Argument 2.
- Argument 1, 3, 4 and 14 includes information about the size and massing treatments of the contextual homes around 963 Grosvenor Pl.
- Argument 6 and 7 discusses the two to three-story home context in the area.

Criterion 5 Building Design of the Guidelines states, "Each building shall have an architectural composition of forms that are well related to one another and the site in proportion, scale, geometry and style." The picture from the Guidelines shows a sample building mass that is not well related to neighborhood development patterns. The image shows a building with that is two-stories higher than the adjacent neighbors for most of its building footprint with few massing elements such as projections, recesses, roof forms to provide order, scale, and interest. The adjacent sample homes are diminutive due to the center home's appearance of mass. In contrast, the proposal at 963 Grosvenor Place is well related to the neighborhood development patterns. The project shows a project that is roughly in line with neighbors and the contextual area. The front façade is very similar to the existing front façade height and is in line with neighbors. The third story addition is terraced back 14 feet from the front façade to step with the hilly upslope grade. It's proportion and scale is well composed for the context area as well as the existing architecture. Many homes on the same westerly side of the Grosvenor Place street context area have 2-3 stories. In addition, the proposed project provides many articulating volumes including the extruded bay window, one-story attached garage, and stepping on the right side of the building envelope to provide order, scale, and interest. When considered together, the massing treatments limit the appearance of bulk at the proposed 963 Grosvenor Place.

The following images are renderings provided by the applicant demonstrate the proposed project in context of its adjacent neighbors. The appellant resides in the house to the project's North – the right side.

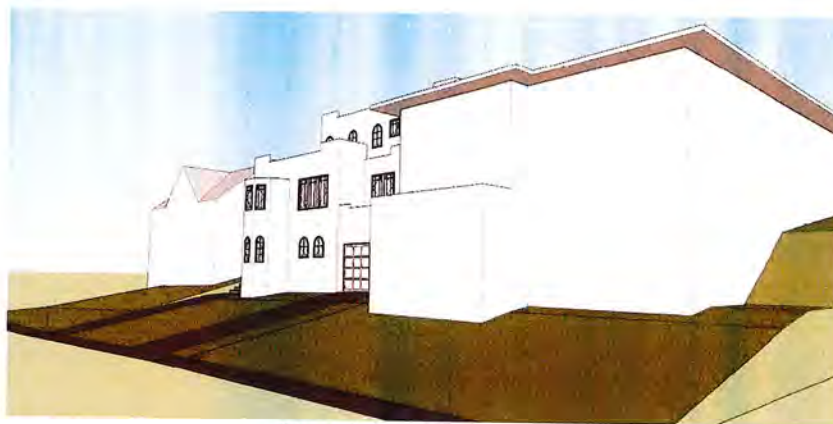


Figure 2 Isometric 1

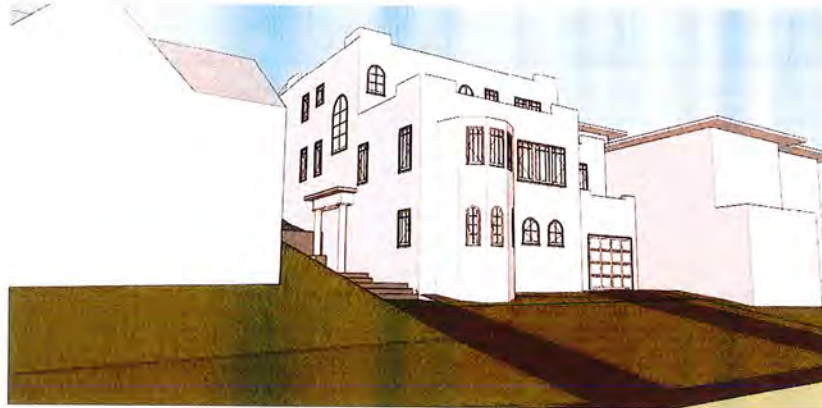


Figure 3 Isometric 2

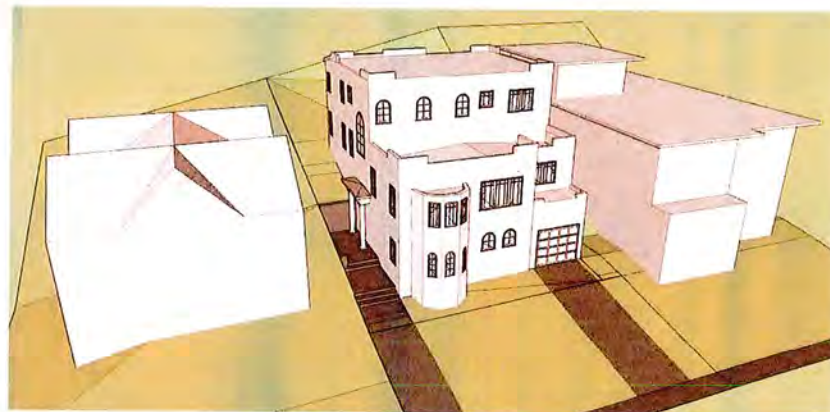


Figure 4 Isometric 3

The proposal will result in a 3,328-square foot home that is too large and out of context when compared to surrounding homes. The Appellant calculated the average square footage of the surrounding homes to be 2,220.5 square feet. Only 4 homes in the surrounding area is larger than 2,500 square feet. The conclusion that the project is well within the allowable building envelope and consistent with the Guidelines is in error, abuse of discretion, for the following reasons:

- **Square footage is an objective indicator of scale / bulk / mass. 963 Grosvenor Place would be the largest home in square footage compared to 20 other contextual homes by a very large margin.**

The maximum allowable building envelope is governed by the pertinent Zoning regulations including height, setbacks, lot coverage, and in this instance floor area ratio. As noted above in Table 1, the project is meeting the Zoning regulations.

The project must also comply with the Guidelines in order for staff to make the required Findings. The Appellant is correct that the maximum allowable building envelope, and as such square footage, could be required to be reduced to meet the Guidelines. However, the Criteria 6 requirement that must be met is that “The project shall manage mass, scale, and composition, including materials and detailing to minimize the building’s actual and perceived bulk.” The Criteria goes on to state that Bulk refers to those characteristics of a building that emphasize its size. A “bulky” building is not necessarily a big building but a building that looks big and is designed in a manner that exaggerates its bigness. Conversely, a large building can be designed so it is not bulky. However, as a building becomes larger or taller, effective management of bulk becomes more difficult and more rigorous application of bulk mitigation techniques may be increasingly necessary. Criteria 6 and 7 and the accompanying Guidelines seek to minimize actual and perceived bulk in building design through a

variety of techniques addressing building, massing, siting, composition, and relation to terrain and neighboring buildings. “

In summary, the Guidelines recognize that small buildings can look big and bigger buildings can be designed with appropriate techniques to reduce the scale, bulk and mass to look small. Nowhere in the Guidelines does it say that square footage of adjacent buildings needs to be considered. As such, staff cannot rely square footage to evaluate compliance with the Guidelines. Staff did make the appropriate Findings related to bulk and mass and discussed throughout the report.

- **The statement “If staff based the allowable sq. ft. solely on existing neighborhood home square footage, additional floor area would never be permitted and our housing resources would never be enhanced” is an abuse of discretion. O.M.C. Section 17.136.050A demands “Regular review approval may be granted only if the proposal conforms to all of the general design review criteria”. Square footage should be a factor in consideration in conjunction with roofline context, height, building footprint, privacy / view concerns, etc. It is unreasonable to discount square footage data as “red herring” data and ignore its impact in conjunction with other factors.**

As noted above, square footage is not noted as a consideration of bulk, mass, and scale in the Guidelines or in the Zoning Regulations. The Guidelines are the objective criteria staff must use to evaluate projects in order to meet the Findings. Staff cannot arbitrarily create additional criteria for consideration. Doing so would be a clear abuse of the Zoning Manager’s discretion.



Figure 5 Isometric of home proposed upon first public notice on September 11, 2017

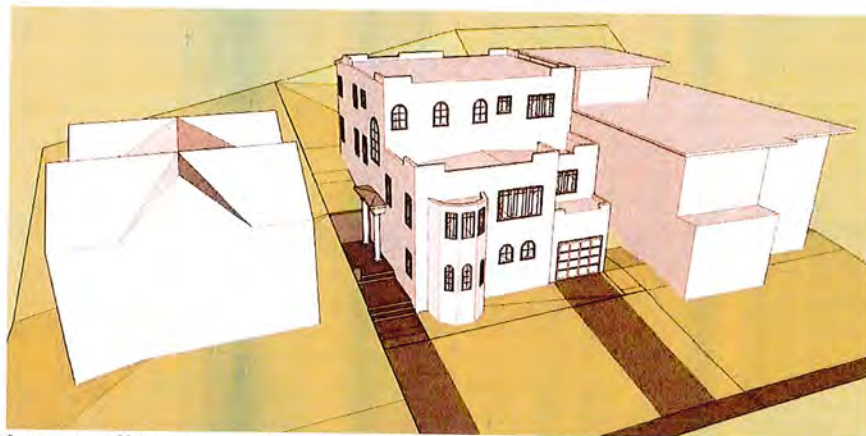


Figure 6 Isometric of home proposed upon second public notice on January 19, 2018

- **The owner-investor-applicant of this project is a professional real estate flipper with the stated goal to sale the house for the highest price possible. Mr. Martin and his company have no interest**

in building an appropriately scaled project that compliments the surrounding homes. Neighbors understand he wants to capitalize on his off-market purchase from an elderly owner at an under market price but it is very unsettling to many neighbors that his desire for absolute profit is the driving force behind all decisions.

The market decisions an owner makes in regards to his or her property is not relevant. It is not the purview of the Bureau of Planning to judge the motives of such decisions. Staff reviewed the Zoning regulations and Guidelines and found the Findings were supportable.

- 2. The Findings rely on non-existent homes and other non-comparable home examples to support its position. Zoning staff cites 940 Grosvenor – which does not exist, 968 Grosvenor – which does not have a third-story step back to support the claim that “the proposed project uses this same strategy by stepping the addition back approximately 15’ from the front façade in a similar manner as the homes at 940 and 968 Grosvenor Pl.**

Staff inadvertently noted an address (940 Grosvenor) that did not exist. Staff has responded in more detail regarding the neighborhood homes and massing treatments and volumes in Argument 4 below. The homes that use this strategy include at 971, 967 (the Appellant’s house) and 955 Grosvenor. Staff re-verified the massing of the contextual homes around 963 Grosvenor Pl. As noted in Argument 4 below, 968 Grosvenor Pl is a two-story residential building that uses differentiated forms to break up the massing profile of the house.

- 3. The Approval Letter cites homes that have three-story massing but ignores the crucial fact that these homes do NOT rise one story (or about 12 to 15 feet) above their immediate neighbors. Furthermore, the findings ignore contextual evidence that roofline height for homes on the street are “flat” in relation to each other. Current homes have a consistent roofline height context that increases gradually as Grosvenor gently slopes up towards Sunnyhills.**

The proposed 963 Grosvenor project roofline will look like a “camel back” by having its top story tower over its two immediate neighbors’ predominant rooflines by 15 feet no matter how far the proposed setback is. The proposed deviation in roofline height context for 963 Grosvenor would break a consistent roofline context for the entire street.

As noted in Table 1 above, the most impactful height of the project is adjacent to the other side neighbor. Roofline heights are not a neighborhood compatibility consideration per Criteria 8, only roof forms and pitch. In addition, the cross-slope is only 8%, and therefore, the project is only considered a hillside property (20%) from the front to the back, not side to side, and building masses and volumes are not required to step with the cross-slope. Also, as shown in Table 2 below, many homes have three-story masses adjacent to two story-masses. Examples of homes with three story massings adjacent to two story homes include 975 Grosvenor Pl, 953 Grosvenor Pl, 982 Grosvenor Pl, and 950 Grosvenor Pl.

The term “camelback” is typically used related to “shotgun” style houses where a second or third story is added at the rear. While the third-story” is setback 14’-11 ½” from the front building façade, the proposed project is not a “shotgun” style house. It is a Mediterranean/Pueblo Revival architectural style which has flat roofs, parapets and different masses and volumes. The proposed addition is in keeping with the historic style of the house.

As seen in Figure 6 above, the proposed third-story is at a relatively similar plane to the roof or third-story of the appellant’s house, and both are setback substantially from the street. Like the Appellant’s house, the proposed project steps with the hill as the elevation becomes higher. The Appellant is accurate in that the third-story addition at 963 Grosvenor Place is larger than that of the third-story at 967 Grosvenor Place. However, it does meet the applicable Zoning regulations and the design criterions to minimize bulk, scale, and massing.

4. Furthermore, the findings again incorrectly states "many homes in the area have three-story massing and volumes. As such the project is consistent with the neighborhood." Criterion S(c), however, notes that the building design must "complement neighborhood scale, development patterns and orientation of structures and not disrupt neighborhood appearance." All arguments previously made regarding this subject are reiterated including the fact that Section 5.11 provides a couple of perfect examples of how the proposed project does not relate well to neighborhood development patterns. A1 states "Radical shifts in building ... scale that disrupt neighborhood development patterns." A3 states "Designs that look conspicuously larger than other structures or disrupt the neighborhood." (Page 5-3) These principles should be enough that it was an abuse of discretion to approve the plans and the evidence did not support such a finding.

Please see staff's response to Argument 1 and 3 above regarding the setting, scale, bulk, mass and neighborhood compatibility.

Table 2 outlines massing information about homes in the contextual area and Attachment E includes the corresponding pictures. This table concludes that many homes have three-story massing elements and volumes.

Table 2: Massing Context

West side of Grosvenor Place, North of Applicant's Parcel at 963 Grosvenor Place

967 Grosvenor	971 Grosvenor	975 Grosvenor	979 Grosvenor	981 Grosvenor
2-3 stories	2-3 stories	3 stories	2-3 stories	3 stories
Stepped mass with 3 rd -story addition at the rear	Differentiated forms; Stepped mass	No massing treatment on front façade projection	No massing treatment	Use of large dormer to slightly minimize appearance of 3 rd story

West side of Grosvenor Place, South of Applicant's Parcel at 963 Grosvenor Place

959 Grosvenor	955 Grosvenor	953 Grosvenor	945 Grosvenor	933 Grosvenor
2-3 stories	2-3 stories	3 stories	1-2 stories	1-2 stories
No massing treatment on front 3 rd story massing with attic	Stepped mass	Cylinder volume and projecting garage massing	Flag lot – not visible from street	Flag lot – not visible from street

East side of Grosvenor Place, North of Applicant's Parcel at 963 Grosvenor Place

986 Grosvenor	982 Grosvenor	976 Grosvenor	972 Grosvenor	968 Grosvenor
2 stories	3 stories	2-3 stories	2.5-3 stories	2 stories
Little massing treatment except bay window and steep roof pitch	Differentiated forms	Little massing treatment except the front entry	Differentiated forms with three-story side massing	Differentiated forms

East side of Grosvenor Place, South of Applicant's Parcel at 963 Grosvenor Place

964 Grosvenor	950 Grosvenor	916 Grosvenor	1200 Trestle Glen	1207 Trestle Glen
2 stories	3 stories	2.5 stories	1 story	2 story

Massing treatment with front balcony, middle cylinder volume	Massing treatment in form of steep pitch, large gable ends, upper story and side volumes	Massing treatment in form of steep pitch, large gable ends, upper story volume	Steep roof and large gable ends	No massing treatment
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5. **The findings incorrectly assume that any project within the “allowable building envelope” is justification for approval. The findings ignore a very important principle outlines in Criterion 6 – Bulk that states: “In some cases, application of Criteria 6 and 7 and their Guidelines may reduce the project’s zoning envelope (height limits, minimum setbacks and maximum lot coverage) from that allowed by Zoning Regulations. Buildings built to the maximum limits of the zoning envelope, particularly those with tall and broad facades, are often boxy, monolithic, and overwhelming in scale. The zoning envelope is not intended to define a by-right volume or massing that may be used to its full extent, but rather to provide sufficient flexibility for a variety of design solutions.” (page 6-1)**

The mere fact that the suggested dimensions are within the allowable building envelope does not constitute evidence that no other issues exist regarding scale, massing, or bulk.

Staff concurs with the statement that just because the project meets Zoning that there could be no issues with scale, mass or bulk. However, as discussed above and as shown in the Figures below, the project has used the techniques in the Guidelines to reduce the bulk. As such the bulk, and mass has been reduced effectively so that the “big” building in terms of square footage seems small. See the staff’s response to Argument 1, 3 and 4 above.



Figure 7 Original Proposal as publicly noticed on September 11, 2018

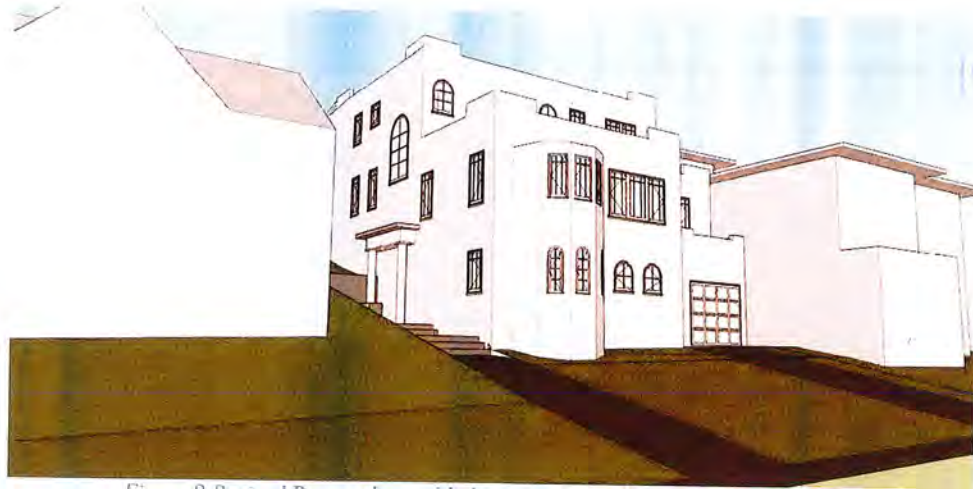


Figure 8 Revised Proposal as publicly noticed on January 19, 2018

- 6. The findings do not recognize the fact that two-story homes are the prevailing neighborhood homes and not two to three story homes as indicated. Furthermore, there are also single story homes.**

There are many two-three story homes in the neighborhood. Refer to Table 2 listed in Argument 4. Many of the two-three story homes are on the west side of Grosvenor Place. Based upon the context area, 11 out of 20 or 55% have a three-story appearance regardless of massing treatments and 18 out of 20 context homes or 90% of homes in the area have at least a 2-story appearance regardless of massing treatments. Two prominent massing treatments are used in the area – stepped massing and differentiated forms. Stepped massing involves the setback of an upper-story from the front, most down sloped portion of the building volume. Differentiated massing involves a partial projection of a building at a front to minimize the perception of bulk, scale, and height.

- 7. Evidence ignored that the setting is not well related to the surrounding homes. The project architect opines that any extension of the rear footprint beyond 4 feet “would have greater impact” on neighboring homes. Extension of building footprint by 10 feet would be invasive to privacy, solar access, eliminate views, and serve as an eyesore. This negative impact has even been confirmed by Project's architect Jack Backus who served in multiple capacities in shepherding the 963 Grosvenor Project through neighborhood Homeowner's Association Process ("HOA"). The extension of the building footprint extends the footprint of the home a total of 10 feet further into the backyard rather than the original 4 feet submitted to the city for approval.**

Applicable Zoning regulations and the Guidelines are used to consider any proposed project. Any opinions or concerns raised by any member of the public, including the architect or Applicant, are considered against such regulations and Guidelines for applicability. For the reasons indicated in the original approval letter Findings, staff believes that the project does not create an invasive impact in respect to privacy, solar access and views to the neighborhood. The Appellant raised these concerns during the comment period. Staff believes the privacy issue has been mitigated by requiring translucent windows or shorter clerestory windows on the upper story side windows. Furthermore, privacy concerns are mitigated because there will not be direct casual views into the adjacent neighbor at 967 Grosvenor Place as the windows are offset as suggested by the Guidelines. Solar access will not be impacted as a solar access study showed that there would not be shadows cast on actively used indoor or outdoor areas for at least two times in a day. There are no protected views as discussed in detail below. As shown below in Figures 9 and 10, the project's addition is compatible with the neighboring buildings in terms of setting.

8. These additional 6 feet are significant because the 2017 HOA Board - which included project architect Jack Backus - stated that any further intrusion into the backyard beyond 4 feet would have a very negative impact on the surrounding homes.

The Bureau of Planning bases its Findings on applicable Zoning regulations from the Oakland Municipal Code and Guidelines. The LHA is an independent body that is governed by different rules and guidelines. The City is not a party to the rules and regulations of any Homeowner's Association, is not bound by their regulations and does not enforce them. If the LHA thought the proposal violated those guidelines it is assumed that the Board would not have voted to approve the project.

9. The approval of a 4 to 10 foot rear footprint expansion by stating it is "not consistent with neighboring properties" and that "the rear building wall is roughly the same as the neighbor to the south and 10' less than the neighbor to the north" is not supported by evidence in the record when reviewing the plans. Reaching this conclusion is an error in light of the findings that the "prevailing neighborhood development pattern includes...large rear yards for open space. Homes are largely consistent in terms of location on the lot."

Staff incorrectly noted the rear yard projection on the right side. The projection is 5', not 4'. However, the conclusion is the same. While there is no requirement to have an aligned rear building footprint between neighbors, if a line is drawn between the rear yards of the adjacent neighbors, the addition will largely be located within that line (See Figure 9). There is between 47-69' of open space area between the addition and the rear property line where only 30' is required. As such, a large rear yard is still being provided, and the project design will protect, preserve, or enhance desirable neighborhood characteristics related to the provision of open space.

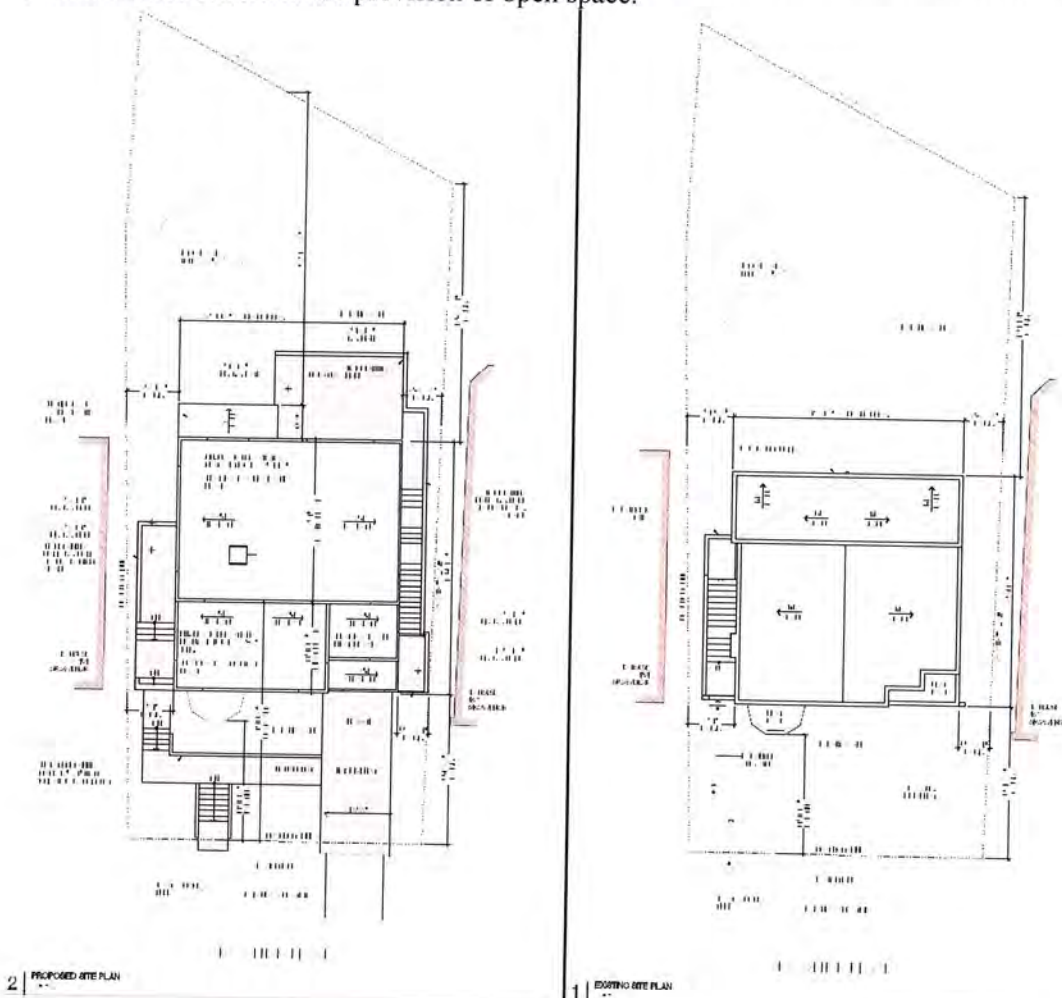


Figure 9 Proposed (left) and Existing (right) Site Plan



Figure 10 963 Grosvenor Place - Existing aerial site with adjacent parcels

- 10. The findings conclude that the one car garage “will be consistent with the neighborhood parking context which provides all required parking on-site”. On-street parking is only permitted on one side of the street, and on-street spaces are further reduced by dedications to ADA designated parking space and AC Transit bus stop space. Zoning staff concludes that 55% of houses have driveways and an equally proportionate number have garages. Surprisingly, it was concluded that 55% parking context is persuasive while ignoring the 95% context figure that homes are less than 2,750 square feet.**

Staff noted that the project design would protect, preserve, or enhance desirable neighborhood characteristics related to the provision of parking. Planning Code Chapter 17.116.060 (A)(1) Off-street parking – Residential Activities requires two parking spaces for each dwelling unit in the RD Zones. The project will remain as a single-family dwelling, and thus, requires two parking spaces.

As noted in the staff’s Finding, the existing single-family dwelling only provides one Zoning Code compliant parking space as the space within the garage does not meet the required width dimensions. The proposal will increase the driveway width to 10’, expand the width of the garage door opening by 1’ and reconfigure the interior of the lower floor to accommodate a Zoning compliant parking space within the garage. With these revisions, the project will provide the required number of parking spaces and parking dimensions.

Parking is not included as a neighborhood context issue per Criteria 8 of the Manual, and so the percentage of homes in the neighborhood which have a similar parking location is not relevant. Parking spaces for residential facilities in this Zone are not based on unit size or number of habitable rooms, and therefore, the size of the house is not relevant either. Criteria 9 of the Manual describes where parking and site access should be located. As the building is existing, the parking location was already determined but is now enhanced with Zoning complaint spaces and a Condition of Approval to install decorative paving.

Furthermore, while the project is meeting the Zoning Code in terms of required parking it is worthy to note that the City does have a Transit First Policy which encourages and prioritizes decisions related to traffic and parking in favor of public transit and alternative modes (referred to as the “Transit First”

policy) and Complete Streets Policy. As noted, AC Transit has a bus line on the street, and the project is in walking distance (3½ blocks) to several additional bus routes on Park Boulevard.

- 11. The Findings state that the neighborhood has desirable characteristics such as "the side and rear setbacks are larger than required by Zoning." Yet, the 963 Project seeks to push the maximum height limit. As previously discussed, building to the maximum allowable building envelope is not mean the applicant has the right to build to the full extent. (See Manual 6-1).**

In accordance with the Regular Design Review Findings and Criteria 7 Bulk: Special Methods for Hillside, the building steps up the hillside as the elevation rises from the street to the rear. The three-story part of the structure is necessary to accommodate stairs along the side of the building for fire purposes and to access the rear yard. Towards the rear of the building, the building tapers off in height to two-stories.

The Zoning allows buildings that are on a 20-40% building footprint slope to have a maximum wall height of 32'. However, the Zoning also allows a 36' wall height or with a Conditional Use Permit. The Applicant has not requested this. Furthermore, the ceiling heights are only 9' which is low considering the minimum ceiling height is 7'-6". Furthermore, the applicant originally proposed a pitched roof which would could have raised the height of the building to 36' or an additional 4'. Staff required that the Applicant to reduce the height of the roof and respond with a style more in keeping with the historic architecture which is a method to reduce bulk (Criteria 6.11). As discussed in Arguments 1, 3, 4, and 14, the building is being broken into multiple volumes with staggered setbacks to reflect the terrain.

As discussed throughout this report and staff's responses, the proposal is meeting the zoning requirements, the Guidelines and all the Findings including those related to managing mass, bulk, and scale to reduce the actual and perceived bulk.

- 12. Few nearby structures with a "third story" do so without towering over its neighbors. The third story of this project will create a "camel back" effect that will cause the top of the building to exceed the rooflines of surrounding homes by approximately 15 feet.**

Please see staff's response to Argument 3 above regarding the "camel back third-story and 15' height.

- 13. The findings recognize that there is abundant tree canopy and landscaping in the immediate neighborhood. However, many neighbors will not be able to view the tree canopy due to the height of the proposed building.**

Staff cites the abundant tree canopy as a desirable neighborhood characteristic. This refers to the tree canopy in the front yards and the abundance of front yard landscaping which is also Criteria 8(7) in determining neighborhood compatibility. The project will maintain the front yard landscaping and tree canopy consistent with this Criteria. All neighbors and visitors can enjoy this neighborhood characteristic from the street. As noted below, a view of the tree canopy is not considered a significant view, and no view protection techniques such as lowering the height of the building are required.

- 14. The same objections pertaining to massing, bulk, size and step back are reiterated in respect to the Finding that the design and massing of the building relates to the grade of the hill.**

Criteria 7 discusses special methods to reduce bulk on hillsides. These guidelines include stepping the building massing with the terrain, breaking building into multiple volumes with staggered setbacks, avoiding and de-emphasizing skirt walls, minimizing height on the downslope, maintain openness between buildings, step rooflines with the terrain, provide strong shadow patterns on downslope elevations, use naturalistic colors, locate garages on the lower level.

The project meets the Guidelines. The building's volumes and rooflines step with the upslope hillside resulting in strong shadow patterns. The building is broken into multiple volumes at the front and along the side at the garage the second story and third story with the setback from the front façade. The entry is being provided on the lower level and is adjacent to stairs and landing. The project does not have significant skirt walls. Along the sides, additional landscaping was a condition of approval added by staff. Openness is maintained between existing buildings. The first floor retains the same setback but with an additional setback over the garage. The third-story is setback from the side. The building will remain an off-white color, and the garage on the lower level is retained.

15. The proposed design does not conform with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which has been adopted by the Planning Commission or City Council.

A. General Plan Consistency

The Findings should not support the conclusion that the Plans comply with the Land Use and Transportation Element (LUTE) for the city of Oakland. The plans do not comply with Objectives N3, N3.9, N6.1, and N7.1.

The Appellant does not explain how the project does not comply with the LUTE Objectives. The project complies with the LUTE per the *General Plan Analysis* section indicated above.

B. Design Review Guidelines: Views

- **The proposed project fails to protect views of Oakland-Piedmont Hills and the surrounding forest. The definition of a "significant view" in section 1.1 for Criterion 1 regarding View Impacts in Neighboring Properties includes "a panoramic view of a major natural feature, such as the ... Oakland/Piedmont/Berkeley Hills, a large open hillside... etc." The historic Crocker Highlands neighborhood sits in a forest with views of surrounding hills on the Oakland-Piedmont border which are a major natural feature. Even Mr. Merkamp concedes in the findings that the "abundant tree canopy ... is an important characteristic of the neighborhood." (Page 4) Yet, the Approval Letter only addresses view obstruction for the rear neighbor and ignores the views of adjacent neighbors.**

Criteria 1 notes that the project shall make reasonable effort to maintain the most significant views from primary living spaces of existing residences in close proximity to the lot and view protection is considered within view corridors, subject to view protection limitations. Significant views are defined as views of the bridges, downtown Oakland or San Francisco skyline, a large portion of the bay, a panoramic view of a major natural feature, or a prominent landmark. Primary living spaces are defined in order as main living room, master bedroom, view-oriented deck or patio, kitchen or dining area, or if none of the above, another bedroom.

The Appellant refers to Attachment A: Exhibits 1.4-1.8 as proof that there are protected views. The vegetation shown in the pictures are of the front and rear yards of many homes in the area. While the project is located in the Oakland foothills, views of neighbors and vegetation are not considered a significant view. Further, the view is not a large panoramic view of a natural feature.

- **The views are protected from "Primary living spaces" include living rooms, master bedrooms, view-oriented deck, or kitchens. These spaces can be found in the affected surrounding properties whether it is the views from the neighbor across the street at 964 Grosvenor or the kitchen or outside decks of neighbor at 959 Grosvenor. Section 1.2 states that view impact evaluation must be considered "for all existing residences abutting**

the project site or directly across the street" or other residences within 300 feet of the project site.

The Appellant is incorrect. As noted above, only significant views are protected and even then, only reasonably so. The view of the neighbors across, down the street, or behind are not significant views.

- **When a view is panoramic or wide angle, any obstruction of 10 degrees or more would be considered a view impact. The entire panoramic view from my master bedroom and other primary view spaces will be wiped out when the additional story is added and the rear of the building protrudes an extra 10 feet into the backyard. (See e.g. Exhibits 1.1-1.3, 1.5-1.7) Looking at the pictures, you can see trees and hillsides with homes speckled across them. I live near the Piedmont-Oakland border and thus views of these hills are explicitly covered by Criterion 1. Furthermore, Section 1.2C states the sight lines begin at a seated eye level and the "proposed roof lines should be a minimum of 2 feet below eye level but may need to be lower if significant distance separates the project and the impacted building."**

The Appellant is incorrect. There are no protected significant views at this property. The views of homes on the hill with vegetation is not a major natural feature. The Manual provides guidance here with examples of major features such as the Oakland/Berkeley hills, Mount Diablo, Lake Merritt, etc.

- **There have been minimal efforts to preserve views from the properties. For instance, Figure 1.4D: Building Depth Limit Technique requires noted that a "Rear portion of house reduced in height to not block view." (Page 1-10). In contrast, the Approval Letter permits the rear story to extend and additional story (12 to 15 feet in the air) rather than maintaining the current roofline or requiring a mass step down to preserve view corridors. Rather than allowing a single-story extension of the footprint, the plans will block view corridors. Furthermore, the view corridors ("cone of vision") on page A0.2 are inaccurately drawn because they do not account for views that exist above the current roof of the 963 Grosvenor home. Also, when I look out my windows, I usually look out of the window at an angle perpendicular to the wall and not at an extreme angle as depicted by the drawing. Therefore, the view impacts in this drawing are dramatically underrepresented.**

There are no significant views at this property as discussed above.

C. **Design Review Guidelines: *Solar Access and Privacy***

- **It is not true that "the upper story is at a similar plane as the adjacent northern neighbor." A 12 to 15-foot height difference between the pre-dominant roofline on my [the Appellant's] house and the Project's house is not a "similar plane" by any measure. In addition, my small addition is at ground level rather than multiple stories, set back 30 feet instead of 14 feet, and 1/3 of the size of the top story at 963 Grosvenor.**

This statement objects to an observation of the conditions at the site. As seen in Figure 4 in the response to Argument 1 above, the proposed third-story is at a relatively similar plane to the roof or third-story of the appellant's house, and both are setback substantially from the street. Like the appellant's house, the proposed project steps with the hill as the elevation becomes higher. The appellant is accurate in that the third-story addition at 963 Grosvenor Place is larger than that of the third-story at 967 Grosvenor Place. However, it does meet the applicable Zoning regulations and the design criteria to minimize bulk, scale, and massing.

- **The privacy of 959 Grosvenor Place patios will be invaded.**

It is false that "windows on the new addition are located such that there are no direct views into adjacent homes." The 3-story building with large windows on the side and back of the house will allow direct casual observation of our master bedroom and other bedrooms from multiple viewing angles. For instance, the windows facing our property on page A3.3 are not opaque and will give direct access views into our bedrooms. The design also includes a large patio deck area that is just a few feet from our master bedroom. The large windows on the side and at the rear of the structure will allow the eventual permanent residents to peer down into the master bedroom as well as other bedrooms including our daughter's and son's bedrooms located along the side of the house. Please also note that the 45-degree solar incline plane drawing on page A0.2 does not account for all the placement of all windows that run the entire length of the property between 963 Grosvenor Place and 967 Grosvenor Place. The drawings previously submitted by the architect were incomplete as they did not include all windows located between our home and the project. The additional condition of Approval requiring adjustments to rear side windows does not account for all bedroom windows at 967 Grosvenor. This omission has repeatedly been brought up to the architect and the City of Oakland during the public comment period but remains unacknowledged.

Criteria 3 of the Guidelines defines a privacy impact as the ability to obtain direct, casual observation of a property's inhabitants from an upper-level deck, terrace or window at the side or rear of an abutting residence, especially from large windows or decks that are unscreened and oriented towards facing windows or decks. The criteria is that the project will make a reasonable effort to minimize privacy impacts from upper-level decks or windows on primary living spaces of residential lots abutting the side or rear of the project site. The Manual outlines reasonable techniques including eliminating decks, reorienting windows, using architectural screening, reducing the size of the windows, and offsetting windows. The Applicant has made reasonable efforts to mitigate the effects of privacy impacts including reorienting windows, reducing the window size, and screening windows. Furthermore, the windows would not be directly adjacent to but instead offset from, the windows of the Appellant. The privacy mitigation techniques would minimize possible privacy impacts.

- **It is false to claim a 6-8' setback (where only 5' is required) along the side property lines where the side setback from the property is barely 5 feet at the front of the property.**

The 6-8' setback was referencing the rear expansion and was rounded down in the decision letter. The project site is slightly skewed so that the front is narrower than the back. The front façade of the existing building has 7'-9" setback on one side and a 5'-2 3/4" setback on the side facing the Appellant's parcel. The first floor (2nd story) plans show floor area within the existing footprint of the building with a notched volume facing the Appellant. This notched volume containing the new bedroom is pulled back from the front façade 2'-11" to further reduce the bulk from the front and side. The second floor (third story) setbacks from the side range from 5'-5" to 6'-6 7/8" on the side facing the Appellant and 8' to 8'-8 1/2" on the other side. All of these setbacks meet the Zoning requirements.

- **The approval letter acknowledges that shadows are actively cast into the actively used indoor area yet concludes there is no solar impact. This is an abuse of discretion and failure to base a decision on substantial evidence.**

Pursuant to Criteria 2 in the Guidelines, a solar access impact exists when more than 50% of an "actively used indoor area's exterior walls facing the project is in shadow created by the project structure as determined by a shadow study for the spring/fall equinox during at least

two of the following three times of day: 9:00 am, Noon, and 3:00 pm. Evidence in terms of a solar analysis was prepared, which determined that the northern neighbor's living room would be a shadow at 3 pm. There is not a solar access impact because the addition only casts a shadow during one of the required times (3:00 pm) and not more than two times a day.

16. The design is not within the building envelope, and the very tall two-story addition at the rear will extend 10 feet into the rear yard.

The Appellant is correct that the addition is not entirely within the building envelop as a rear addition is proposed. This addition will extend 5-10' back with the larger protrusion adjacent to the left side neighbor's house. The addition is well outside the rear setback and is roughly in line with the adjacent neighbor's home. The addition is 10' taller at the rear and is well under the allowable height limit of 32'. The proposal still meets all the required Findings for approval and is consistent with the Guidelines as noted throughout this report.

17. The findings again incorrectly assert that "a large side setback (6-8') is already provided" where in reality the setback is a mere 5 feet at the front of the building. Furthermore, the findings again incorrectly states "many homes in the area have three-story massing and volumes. As such the project is consistent with the neighborhood." Criterion S(c), however, notes that the building design must "complement neighborhood scale, development patterns and orientation of structures and not disrupt neighborhood appearance." All arguments previously made regarding this subject are reiterated including the fact that Section 5.11 provides a couple of perfect examples of how the proposed project does not relate well to neighborhood development patterns. A1 states "Radical shifts in building ... scale that disrupt neighborhood development patterns." A3 states "Designs that look conspicuously larger than other structures or disrupt the neighborhood." (Page 5-3) These principles should be enough that it was an abuse of discretion to approve the plans and the evidence did not support such a finding.

Please see the staff's response to Argument 15(3) above regarding the setbacks.

Please see staff's response to Arguments 1, 3, 4, 6 and 14 above regarding the proposed project's mass and volumes compared to the neighborhood.

18. The Findings incorrectly state that there is "no consistent roof form context."

Criteria 8(1) in the Design Review Manual for One – and Two-Unit Residences (Manual) is neighborhood compatibility. Neighborhood compatibility includes consistency in roof pitch and form, entry way context, building setbacks, surface materials, windows and openings, architectural detail, and landscape. The context area consists of varying roof forms. They include flat roofs, gable roofs, cross gable roofs, intersecting gable roofs, dormer roofs, as well as hip and valley roofs. The sloping pitched roofs are of varying roof slopes. The variety of roof forms demonstrate that there is no consistent roof form context. Per, the Manual, if there is no consistent context than that context issue does not apply.

19. The approval letter stated the application was "APPROVED for the reasons stated in Attachment A, which contains the findings required to support this decision." (Approval Letter - p. 1). The problem, however, is that Mr. Merkamp cited O.M.C. 17.136.050B which covers "Nonresidential Facilities and Signs" instead of O.M.C. 17.136.050A as the explicit grounds for approving the Project.

The statement that the approval letter is basing its findings on Section 17.136.050B was a typographical error made by staff during preparation of the Zoning Manager decision letter. While the letter did cite the wrong criteria, Section 17.136.050B instead of 17.136.050A, staff did make the correct Residential

Design Review Findings for approval. The typographical error in the citation is not sufficient reason to overturn the Zoning Manager's decision to approve the proposed project.

- 20. I object to the extent the City of Oakland improperly granted an exemption for the California Environmental Quality Act (CEQA) review. Mr. Merkamp granted a categorical exemption for Existing Facilities (Sec. 15301) and Projects consistent with a community plan, general plan and zoning (Sec. 15183). Furthermore, a public hearing was not granted pursuant to any city and county regulations for proper public review of the decision to exempt to project.**

The State CEQA Guidelines categorically exempts specific types of projects from environmental review. CEQA Guidelines Section 15301 "Existing Facilities" exempts the minor alterations of existing private structures involving negligible or no expansion of an existing use. Subsection (e) includes "Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive." The project will maintain the existing use of the single-family home and the increase of 1,860 sq. ft. of floor area is well below 10,000 sq. ft. limit. Therefore, the proposal meets the conditions described in CEQA Guidelines, § 15301.

Furthermore, the project does not trip the Exceptions in Section 15300 for the use of an Exemption. Specifically:

- a) The location Exception does not apply to Section 15301 projects;
- b) The building has not had any additions or alterations since built, and the Applicant is not proposing any further successive projects of the same type and in the same place.
- c) The project is located in an urban residential neighborhood and will add an addition to the existing single-family home. Additions within residential neighborhoods to increase square footage is not an unusual circumstance.
- d) The project is located in a residential neighborhood and is located approximately .3 miles from a scenic highway.
- e) The project site is not located on the Cortese List but in a built-out residential neighborhood.
- f) The project is on the Local Register but not considered a historic resource pursuant to CEQA and the City's Historic Preservation Element Policy 3.8.

Furthermore, as a separate and independent basis, the City finds that the project is consistent with CEQA Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning." CEQA mandates that projects which are consistent with the development density established by existing zoning or general plan policies for which an EIR was certified shall not require additional environmental review (CEQA Guidelines, § 15183(a).) As shown in the *General Plan Analysis* section above, the project meets many of the LUTE policies related to neighborhoods. The project is not increasing allowable density in the Detached Unit Residential General Plan classification but is maintaining a single-family home. Further, as shown in the *Zoning Analysis* section, above, the project meets the Zoning requirements and no Variances were requested. Finally, the project is not located in a Specific Plan, Area Plan or Community Plan area.

Pursuant to Planning Code Section 17.136.040C, the Zoning Manager's decision does not require a public hearing but can be approved administratively after public notice is given.

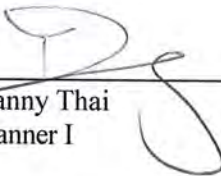
CONCLUSION

In conclusion, the Appellant fails to cite any error or abuse of discretion by the Acting Zoning Manager in the approval of this project. There is no reasonable basis for overturning staff's determination, as reflected in the Findings for Approval and this staff report. Staff recommends that the RAC uphold the Acting Zoning Manager's decision and deny the Appeal.

RECOMMENDATIONS:

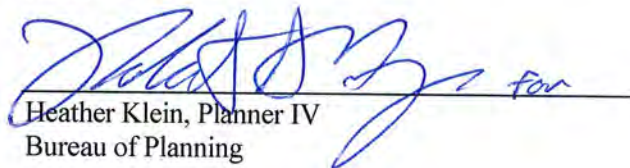
1. Uphold staff's CEQA environmental determination
2. Deny the appeal and uphold the Zoning Administrator's approval of the project based on this appeal report

Prepared by:



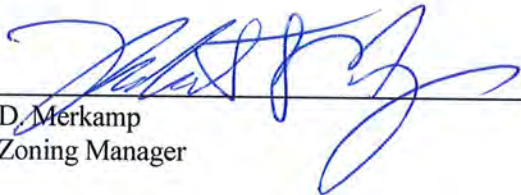
Danny Thai
Planner I

Reviewed by:



Heather Klein, Planner IV
Bureau of Planning

Reviewed by:



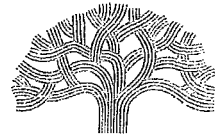
Robert D. Merkamp
Acting Zoning Manager

LEGAL NOTICE: The decision of the Residential Appeals Committee is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced (Code of Civil Procedure Section 1094.6).

ATTACHMENTS:

- A. Zoning Manager Approval letter
- B. Appeal documents
- C. Project Plans noticed September 11, 2017
- D. Project Plans noticed January 19, 2018
- E. Staff photographs of contextual homes
- F. Public Comments regarding project plans noticed September 11, 2017 and January 19, 2018

CITY OF OAKLAND



DALZIEL BUILDING ◦ 250 FRANK H. OGAWA PLAZA ◦ SUITE 3315 ◦ OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941

FAX (510) 238-6538

TDD (510) 238-3254

March 28 2018

Jack Backus
1057 Hubert Rd
Oakland, CA 94610

RE: Case File No. PLN17198; 963 Grosvenor Pl; 011 088900902

Dear Mr. Backus,

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To alter and add additional building floor area to a single-family residence
Planning Permits Required:	Regular Design Review
General Plan:	Detached Residential
Zoning:	RD-1
Environmental Determination:	15301-Existing Facilities; and 15183-Projects Consistent with a Community Plan, General Plan, or Zoning
Historic Status:	OCHS Rating: D2+
City Council District:	2

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on April 9, 2018**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Danny Thai, Planner I**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of **\$1622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter. A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made

payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Bureau of Planning, to the attention of **Danny Thai, Planner I**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Danny Thai, Planner I** at (510) 238-3584 or dthai@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



ROBERT D. MERKAMP
Acting Zoning Manager

cc: Steven Garrett, 967 Grosvenor Pl, Oakland, CA 94610
John and Christina Lyman, 975 Grosvenor Pl, Oakland, CA
Linda Hausrath, 981 Hillcroft Circle, Oakland, CA 94610
Bruce and Nancy Shyer, 987 Grosvenor Pl, Oakland, CA
Alan M Smith and Vu T Tran, 916 Grosvenor Pl, Oakland, CA
Greg Jurin, 950 Grosvenor Pl, Oakland, CA 94610
James McCrea, 1311 Grand Ave, Oakland, CA 94610
Christopher and Teresa Galvin Lee, 1183 Holman Rd, Oakland, CA 94610
Theresa Mak and Brandon Garibaldi, 972 Grosvenor Pl, Oakland, CA 94610
Stephen and Elizabeth Detwiler, 959 Grosvenor Pl, Oakland, CA 94610
M Dooley, dooleym@gmail.com
Cheryl Perko, 1173 Holman Rd, Oakland, CA 94610
Emmy and Jeff Fearn, 733 Longridge Rd, Oakland, CA 94610
Anthony Riggins, 971 Grosvenor Pl, Oakland, CA 94610
Susan Chaconas, susanchaconas@yahoo.com
Roger Davies, rmdat2003@yahoo.com
Jim McPhee, 964 Grosvenor Pl, Oakland, CA 94610

Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the **Residential Design Review criteria** (Section 17.136.050B) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown in normal type.

17.136.050B - RESIDENTIAL DESIGN REVIEW CRITERIA:

1. **The proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.**

The prevailing neighborhood development pattern includes large, two to three story single-family homes on medium size parcels. Buildings are generally located outside the front yard setback and medium side yard setbacks are provided as well as large rear yards for open space. Homes are largely consistent in terms of location on the lot. Driveways lead to one to two car attached garages at the front or along the side of the building. The homes are a mix of architectural styles including Tudor, Mediterranean, and Colonial as well as more modern interpretations. Most neighborhood homes incorporate the use of stepped and/or staggered volumes or projected and recessed masses. Contextual roof forms include flat roofs, sheds, hip, gable, A-frame, and cross-gable roofs. Stucco siding with heavy use of architectural detailing such as arched windows, grid windows, decorative trim, eave and trim brackets, medallions, moldings and emphasized gables dominates the neighborhood context.

Setting

The project will result in a residence with 1,755 sq. ft. of lot coverage or 3,328 total sq. ft. The proposed project will not expand into the front or side yard setbacks. The home will expand in the rear but only slightly (between 4-10'). This expansion will not result in a lot coverage inconsistent with neighboring properties. For example, the rear building wall is the roughly the same as the neighbor to the south and 10' less than the neighbor to the north. A large rear yard of 38-43' is provided where only 30' is required. The new building footprint is well within the allowable amount governed by the setbacks and lot coverage.

Scale, Massing and Bulk

As discussed above, there is a consistent neighborhood building height between two to three stories. The two prominent massing treatments used in the area include stepped massing and differentiated forms. Stepped massing involves the setback of an upper-story from the front-most portion of the building volume. Differentiated massing involves a partial projection of a building at the front to minimize the remaining portion of the building's bulk, scale, and height.

Stepped volumes on the existing building include the one-story garage, two and a half story bay turret projection, and the second story recessed room at the front right to reduce the mass and bulk. The proposed project uses this same strategy by stepping the addition back approximately 15' from the front façade in a similar manner as the homes at 940 and 968 Grosvenor. The three-story portion is only for about 15' in the middle of the building envelope. This design is like many other houses in the area including 940, 953, 972, 976, 982, and 990 Grosvenor which have three-story massing or volume elements. As such, the design is not significantly larger than other homes in the neighborhood. Finally, the project's design reduces the mass and bulk better than nearby houses on the same block such as 976 and 979 Grosvenor Place which are boxy and only rely on architectural detailing.

The Zoning Code regulates allowable building area through lot coverage, setbacks, and height maximums as well as compliance with the City Design Guidelines. The project is well within the allowable building

envelop based on these factors and, as discussed below, is consistent with the Guidelines. If staff based the allowable sq. ft. solely on existing neighborhood home square footage, additional floor area would never be permitted and our housing resources never enhanced.

Materials and Textures

Stucco is the predominate material within the context area and is on the existing building. The proposed addition will match this façade material; therefore, the project is well related to the surrounding area in terms of materials.

The neighborhood is not dominated by any one architectural style but all homes include extensive use of architectural detailing. Notable features on the existing structure include the flat roof plane with a semi-crenulated parapet, arched and rectangular windows with a unique divided light pattern, arched main entrance feature, turret bay window, and clay tile roof. These features are incorporated into the proposed addition consistent with the building's contemporary Mediterranean/Pueblo Revival architectural style. Specifically, the addition includes arched and rectangular windows with a divided light pattern; wood trim and moldings, and a continuation of the flat roof plane, clay roof and a semi-crenulated parapet. As such, the proposed project is well related to the surrounding area in terms of textures and architectural detailing.

In conclusion, the overall siting, scale, bulk, massing, materials and texture of the building is compatible with the adjacent residences.

2. The proposed design will protect, preserve, or enhance desirable neighborhood characteristics.

As noted above, the desirable characteristics are large, two to three story single-family homes on medium size parcels. Buildings are located in a consistent manner on the lot, outside the front setback. The side and rear setbacks are larger than required per Zoning. Architecture, massing and bulk is varied and differentiated through the heavy use of architectural detailing and building volumes. Front yards are landscaped, and the street is tree-lined. Adequate parking is provided on-site and in driveways located at the front or side.

The proposal maintains the same single-family residential use in a two-three story home. The upper story addition and remodel is situated largely within the existing building footprint. The project will only expand into the rear and is minimal. Furthermore, as discussed above, the proposed addition will not result in a lot coverage or expansion greater than adjacent neighboring properties.

As discussed above, the homes in the neighborhood are a mix of architectural styles. As such, these styles include different volumes, roof rooms, and architectural details that reduce mass, scale and perceived bulk but are consistent with the architecture type. Many homes incorporate stepped or staggered volumes to minimize the building's prominence. The project design uses this same strategy as well. While, there is a three-story portion of the building as part of the project, many homes in the area also have three-story massing elements and volumes.

The subject site is located on a portion of Grosvenor Place where abundant tree canopy is provided and landscaping is plentiful. This is an important characteristic of the neighborhood. The project will retain its street tree and much of the front yard landscaping.

A minimum of two off-street parking spaces is required for single-family homes in the RD-1 Zone. The purpose of these regulations is to provide adequate, convenient and attractive parking on-site while on-street parking is available for the public. All the homes in the neighborhood provide at least two off-street parking spaces either in a two-car garage or in a one-car garage with tandem parking in the driveway (916, 959 967, 968, 972, 976, 979, 982, 986 Grosvenor). Other homes provide three or more spaces (950, 953, 955, 964, 971, 975, and 981 Grosvenor). Eleven out of twenty or 55% of the contextual homes contain

parking spaces in driveways at the front of the home. The same proportion of contextual homes contain garages. The existing single-family dwelling has a 25' long driveway leading to a one car garage that does not meet the current Zoning regulations for a parking stall. The proposal will increase the driveway width to 10', expand the width of the garage door opening by 1' and reconfigure the interior of the lower floor to accommodate a Zoning compliant parking space. With these revisions, the project will provide the required number of parking spaces, parking dimensions, siting and configuration and will be consistent with the neighborhood parking context which provides all the required parking on-site. Furthermore, AC transit has a bus line on the street, and the project is in walking distance (3 ½ blocks) to several more on Park Boulevard which provide alternative transportation methods.

3. The proposed design will be sensitive to the topography and landscape.

Most of the proposed addition is located within the existing building's footprint. However, the project does expand rearward between 4' and 10'. In addition, the project will result in construction of walkways and stairs in the front yard, a retaining wall to accommodate a backyard patio and the main entrance on the south façade will be lowered to be closer to street grade. This work will result in only minimal grading around the house as opposed to major cut and fill of the slope. As a result, the project is sensitive to the topography.

As discussed above, fully landscaped front yards and street trees are important characteristics of the neighborhood. Furthermore, the perceived massing and height of homes is greater due to the slope; however, the massing of large homes in the neighborhood is strongly reduced through dense tree canopies and landscaping on along the front facade. The project will retain the street tree and much of the landscaping and the existing vegetation per plan sheet A1.0. While the addition will extend further into the rear yard, the existing large Oak tree is more than 10' from the building envelope and will be retained. In order to ensure visual front yard interest and a softening of the building mass, staff has added Conditions of Approval related to a final landscape plan and a new medium-sized tree planted at the center of the front yard. Therefore, the project is sensitive to the landscape and tree canopy.

4. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

The proposed project is located on a 28% up-sloping parcel. The existing building encompasses many elements, when seen from the front, that manage mass and minimize the building's bulk such as the flat roof plane and semi-crenellated roof parapet, arched and rectangular windows, and the turret bay window. These elements are retained and emphasized in the proposed design. The existing one-story garage volume and the addition's approximately 15' setback from the front façade provides a staggered design element that transitions the building mass upward and relates to the slope.

When seen from the side, two horizontal volumes also step with the upslope grade resulting in two-stories at the rear. The only three-story portion is in the middle 15' of the building and is a result of bringing the main entrance closer to street level grade. As a result, the design avoids a singular large and boxy form, reduces grading and meets the City's Design Guidelines 7.1 and 7.2 Special Methods for Hillside which states that the upper massing elements should step with the terrain.

5. The proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

General Plan Consistency

The subject site is in the Detached Residential land use classification per the Land Use and Transportation Element (LUTE) of the City of Oakland's General Plan. The Detached Unit Residential classification is

intended to create, maintain, and enhance residential areas primarily characterized by detached, single-unit structures. This site will maintain the single-family home but with interior remodeling and an addition to increase the square footage. Furthermore, the project meets the following LUTE goals and policies:

Objective N3 states: “Encourage the construction, conservation, and enhancement of housing resources to meet the current and future needs of the Oakland community.” This proposal to add building footprint and floor area to an existing single-family dwelling will enhance the resource in a manner consistent with the Zoning regulations and the building’s architecture.

Objective N3.8 states: “High-quality design standards should be required of all new residential construction.” This building addition and remodel will be conducted in a way that is high quality in its architectural design, consistency with the building’s historic style and materials. Furthermore, the proposal is complementary with the variety of high-quality single-family homes in the neighborhood.

Objective N3.9 states: “Residential developments should be encouraged to face the street and to orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure.” The proposed addition is largely within the building envelop and will continue to face the street. As discussed below, the upper-story addition will not unreasonably affect the neighboring homes’ access to desirable sunlight. Substantial shadowing into adjacent 967 Grosvenor Place’s actively used indoor space (living room) occurs at 3 pm in the afternoon. No scenic views exist as discussed in detail below. With the third-story addition to the rear of the house, the upper story is now at a similar plane as the adjacent northern neighbor. However, windows on the new addition are located such that there are no direct views into adjacent homes.

Objective N6.1 states: “The City will generally be supportive of a mix of projects that provide a variety of housing types, unit sizes, and lot sizes which are available to households with a range of incomes.” The project proposes a single-family house with a large, useable floorplan so that potential residents can enjoy the Crocker Highlands neighborhood. As discussed above, the project required no variances, is well within the Zoning regulations in terms of floor area, building footprint, and floor area ratio, and is consistent with other neighboring properties within the context area in terms of building height, scale, and bulk.

Objective N7.1 states: “New residential development in Detached and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.” The project ranges from two-three stories. However, due to the upsloping grade, the three-story portion is only for a small portion at the interior where the main entrance is located. The project is similar the scale of the surrounding development. Homes in the area are of high-quality materials, unique, and of no prominent architectural style. This project is high quality in its detailing and will enhance the existing and desired character of the surrounding development.

Design Review Guidelines

The project design is consistent with the objectives in the *Design Review Manual for One – and Two-Unit Residence*. Specifically, the Manual describes the criterion for review of residential construction. The criterion includes views, solar access, privacy, site design, building design, bulk, neighborhood compatibility, landscaping and parking. Each criterion is described below.

Views

The addition of a new upper-story has attracted the attention of the concerned neighborhood residents. The project will not affect any of the protected views listed in the Design Guidelines. Protected views are distant views of the bridges, downtown Oakland or San Francisco skyline, a large portion of the bay, a panoramic

view of a major natural feature, or a prominent landmark. There are no protected views of sites within proximity of the neighborhood context to be protected. Furthermore, the remodeled building will be located at a lower elevation than the rear neighbor and, therefore, would not result in any view obstruction. Views of trees and the sky are not protected views.

Solar Access and Privacy

A solar access study was prepared to analyze impacts on immediately adjacent neighbors due to the addition to the house. Per the City's Guidelines, an impact only exists if the project would affect an actively used indoor area (living rooms, dining rooms, etc.) or an outdoor area (gathering space, deck, etc.) Per the analysis, no solar access impact exists as shadows are only cast into the actively used indoor space, the northern neighbor's living room, at 3 pm during the day. Shadows will not be cast on an actively used outdoor area only on a side yard.

Per the City's Guidelines, a project shall be designed to minimize privacy impacts on the project from neighboring properties. With the third-story addition to the rear of the house, the upper story is now at a similar plane as the adjacent northern neighbor. However, windows on the new addition are located such that there are no direct views into adjacent homes. Furthermore, there is a 6-8' setback (where only 5' is required) along the side property lines. Nevertheless, staff included an additional Condition of Approval requiring that the rear side windows, adjacent to neighboring bedroom windows, be either at half height (clear-story) or obscured glass to further minimize the risk of indirect observation between the windows. Furthermore, the remodeled building will be located at a lower elevation than the rear neighbor and the rear yard is densely vegetated; therefore, the project will not result in any privacy impacts to that neighbor.

Site Design

The addition is largely located within the building envelope and will not increase the front or side setbacks. As discussed above, the rear setback will be decreased slightly but is equal to the neighbors rear building façade on the south and protrudes less than the neighbor to the north. A large rear yard is provided.

Building Design and Bulk

Per the City's Design Guidelines, the project encompasses many elements that manage mass and minimize the building's scale and bulk such as avoiding boxy forms, subdividing mass into building volumes, balancing height greater than two stories with lower forms, maximizing attic or basement areas, breaking up large wall surfaces with materials and details, providing an orderly design and limited focal points, avoiding tacked on elements, and ensuring architectural consistency.

The turret bay window projection, recessed volume at the 2nd Floor bedroom, and the large setback at the upper level avoid boxy forms and divide the building mass into distinct volumes. The main entry feature, an arched window and semi-crenellated parapet balance height with lower forms and a large side setback (6-8') is already provided. The project adds functional floor area in the existing non-habitable lower floor. Large wall surfaces are broken up by major architectural features such as the arched windows, parapet and turret. The design is orderly and the arched windows and turret are the main focal points. The design doesn't not include extraneous elements and the addition is consistent with the architectural style.

Finally, as discussed above, many homes in the area have three-story massing and volumes. As such the project is consistent with the neighborhood.

Neighborhood Compatibility

Neighborhood compatibility includes consistency in roof pitch and form, entry way context, building setbacks, surface materials, windows and openings, architectural detail, and landscape. As discussed above,

the homes in the neighborhood are a diverse of mix of architectural styles with no consistent roof form context. The proposed addition is consistent with the existing building's roof forms. Both front and side entries are part of the neighborhood context. In general, these entries are distinctive even if on the side. The proposed project will retain the arched entry which is a distinctive feature of the building. The addition is consistent with the existing building and neighborhood in terms of material as well as architectural detailing. Given the variety of architectural styles, there is no consistent window pattern or composition. However, both the neighborhood, the existing building and addition have ornate openings.

Landscaping, Parking and Street Fronting Walls

As discussed above, the project will include front yard landscaping and parking that is consistent with Zoning. Colored concrete will be installed leading to the prominent archway entryway visible from the street, and the new driveway, per the Conditions of Approval, will be pavers or other decorative materials to match the decorative paving through the context area. Several short retaining walls will be incorporated into the new front yard design. These will be stucco-ed to match the exterior of the house. No new fencing is proposed.

In summary, the proposed design is well-related to the surrounding dwellings regarding setting, scale, bulk, height, materials, and textures, and the proposal is consistent with the *Design Review Manual for One – and Two-Unit Residences*.

ATTACHMENT B: CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **dated November 14, 2017** and received **November 16, 2017** as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable

requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.

c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations

of the Conditions of Approval. The project applicant shall establish a deposit with the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Landscape Plan

a. *Landscape Plan Required*

Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. *Landscape Installation*

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is

provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. *Landscape Maintenance*

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Lighting

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

15. Construction-Related Air Pollution Controls (Dust and Equipment Emissions)

Requirement: The project applicant shall implement all of the following applicable air pollution control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

17. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report

prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

20. Soils Report

Requirement: The project applicant shall submit a soils report prepared by a registered geotechnical engineer for City review and approval. The soils report shall contain, at a minimum, field test results and observations regarding the nature, distribution and strength of existing soils, and recommendations for appropriate grading practices and project design. The project applicant shall implement the recommendations contained in the approved report during project design and construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

21. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;

- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

22. Erosion and Sedimentation Control Plan for Construction

a. *Erosion and Sedimentation Control Plan Required*

Requirement: The project applicant shall submit an Erosion and Sedimentation Control Plan to the City for review and approval. The Erosion and Sedimentation Control Plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading and/or construction operations. The Plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary. The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the City. The Plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. *Erosion and Sedimentation Control During Construction*

Requirement: The project applicant shall implement the approved Erosion and Sedimentation Control Plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Bureau of Building.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

23. Drainage Plan for Post-Construction Stormwater Runoff on Hillside Properties

Requirement: The project applicant shall submit and implement a Drainage Plan to be reviewed and approved by the City. The Drainage Plan shall include measures to reduce the volume and velocity of post-construction stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be

augmented to adjacent properties, creeks, or storm drains. The Drainage Plan shall be included with the project drawings submitted to the City for site improvements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

24. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

25. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets “No Dumping – Drains to Bay;”
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;
- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
 - f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
 - g. Dumpster drips from covered trash, food waste, and compactor enclosures;
 - h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
 - i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
 - j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

26. Architectural Copper

Requirement: The project applicant shall implement Best Management Practices (BMPs) concerning the installation, treatment, and maintenance of exterior architectural copper during and after construction of the

project in order to reduce potential water quality impacts in accordance with Provision C.13 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES). The required BMPs include, but are not limited to, the following:

- a. If possible, use copper materials that have been pre-patinated at the factory;
- b. If patination is done on-site, ensure rinse water is not discharged to the storm drain system by protecting storm drain inlets and implementing one or more of the following:
 - c. Discharge rinse water to landscaped area;
 - d. Collect rinse water in a tank and discharge to the sanitary sewer, with approval by the City; or haul off-site for proper disposal;
 - e. During maintenance activities, protect storm drain inlets to prevent wash water discharge into storm drains; and
 - f. Consider coating the copper with an impervious coating that prevents further corrosion.

When Required: During construction; ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

27. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

28. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Extreme Construction Noise

a. **Construction Noise Management Plan Required**

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. **Public Notification Required**

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the

proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

30. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

31. Construction Activity in the Public Right-of-Way

a. *Obstruction Permit Required*

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets and sidewalks.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. *Traffic Control Plan Required*

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. *Repair of City Streets*

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

32. **Construction and Demolition Waste Reduction and Recycling**

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

33. **Underground Utilities**

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

34. **Green Building Requirements**

a. ***Compliance with Green Building Requirements During Plan-Check***

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

i. The following information shall be submitted to the City for review and approval with the application for a building permit:

- Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
- Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
- Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
- Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
- Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
- Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.

- Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

ii. The set of plans in subsection (i) shall demonstrate compliance with the following:

- CALGreen mandatory measures.
- All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.
- **Green building point level requirement** of a minimum 25 points per the Greenpoint Rated Elements label.
- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. ***Compliance with Green Building Requirements During Construction***

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. ***Compliance with Green Building Requirements After Construction***

Requirement: Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation to **Green Building Certification Institute** and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

When Required: After project completion as specified

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

35. **Tree to be planted in the front yard**

Requirement: A medium-sized or larger tree shall be planted at the center of the front yard. A list of frequently planted tree species is listed at OMC Section 17.124.110.

When Required: During construction

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

36. Frosted or shorter windows

Requirement: The project applicant shall indicate by note, architectural details, or both on building permit application submittal drawings the requirement to frost or to make opaque, the upper-story side rear windows (two in the proposed master bedroom on the left façade and the two in the two new bedrooms on the right side). Alternatively, the applicant may choose to shorten these same windows to half height to reduce privacy impacts.

When Required: Prior to issuance of construction related permits

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building, Bureau of Planning

37. Window, Door, Roof and Façade Material Details.

Prior to issuance of building permit.

The applicant shall submit to the Planning and Zoning Division for review and approval, a window and door schedule, including cross-sections and elevations, and final architectural details of the front and side elevations. All windows shall match the existing windows in terms of divided light pattern, trim, recess, and sill. All trim and shall be wood. Mouldings, if applicable, shall be wood and covered with stucco. The roof shall be clay tile in a style to match the existing roof. All cement plaster stucco shall be smooth finish and applied wet at the job site unless the existing building façade is textured. In this case, the texture shall match the existing building. If all stucco, even, on the existing building, is to be removed, it shall be of a smooth finish.

38. Driveway Paving

The applicant shall submit a revised site plan to be approved by Planning Department staff showing that the proposed driveway surface area shall be finished with permeable decorative pavers for visual appeal as well as to minimize stormwater run-off.

39. Meter Shielding.

Prior to issuance of building permits.

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.

Applicant Statement

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

Name of Project Applicant

Signature of Project Applicant

Date

City of Oakland
Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: Case No. PLN17198 963 Grosvenor Pl

Project Applicant: Jack Backus

Project Location: 963 Grosvenor Place, Oakland CA

Project Description: To alter and add additional building floor area to single-family residence

Exempt Status:

Statutory Exemptions

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- Other: {Sec. _____}

Categorical Exemptions

- Existing Facilities {Sec.15301}
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- In-fill Development {Sec. 15332}
- General Rule {Sec.15061(b)(3)}

Other

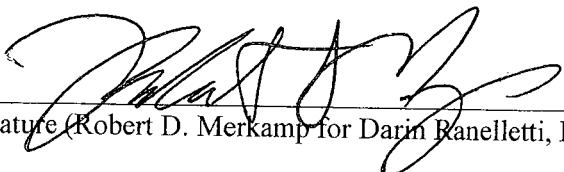
- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- _____ (Sec. _____)

Reasons why project is exempt: The project will add 1,860 sq. ft. of building footprint and floor area to an existing single-family residence.

Lead Agency: City of Oakland, Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: Danny Thai, Planner I

Phone: 510-238-3584


Signature (Robert D. Merkamp for Darin Ranelletti, Environmental Review Officer)

3/27/18
Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

LEAD AGENCY NAME AND ADDRESS

City of Oakland – Bureau of Planning
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612
Contact: Danny Thai

FOR COUNTY CLERK USE ONLY

FILE NO: _____

**CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:
(PLEASE MARK ONLY ONE CLASSIFICATION)**

1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION

A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

2. NOTICE OF DETERMINATION (NOD)

A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,280.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 3,168.25 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

3. OTHER: _____

*****A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.*****

BY MAIL FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES.

IN PERSON FILINGS:

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPES.

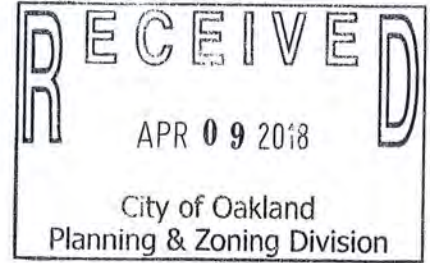
ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.

FEES ARE EFFECTIVE JANUARY 1, 2018

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

APL18008 - APPEAL OF PLN17198

Menu Reports Help



File Date: 04/09/2018

Application Status: Under Review

Application Detail: Detail

Application Type: Appeal

Address: 963 GROSVENOR PL

Owner Name: KENNEALLY KAREN R & EWOLDSSEN ROSS E

Owner Address: 963 GROSVENOR PL, OAKLAND, CA 946102510

Application Name: APPEAL OF PLN17198

Parcel No: 011 088900902

Description of Work: To appeal Zoning Manager's decision of PLN17198.

Contact Info:	Name	Organization Name	Contact Type	Rel
	<u>STEVEN GARRETT</u>		Appellant	

Job Value: \$0.00

Total Fee Assessed: \$1,622.57

Total Fee Invoiced: \$1,622.57

Balance: \$1,622.57

Workflow Status:	Task	Assigned To	Status	Status D
	<u>Application Intake</u>		Accepted for...	04/09/20
	<u>Appeal Processing</u>			
	<u>Closure</u>			

Condition Status:	Name	Short Comments	Status	Ap
	<u>Administrative Decision</u>		Zoning Administrator Determi	
	<u>Environmental Determination</u>		Creek Determination	
	<u>Billboard Amortization</u>			

Custom Fields: **APPEAL OF**
Administrative Decision Zoning Administrator Determi
 ✓
Environmental Determination Creek Determination
 ✓
Billboard Amortization

LEGISLATIVE ACTIONS

Action	Action Number	Action Date	Effective Date	Comments

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 City of Oakland
 Planning & Zoning Division

**CITY OF OAKLAND
 APPEAL FORM**

**FOR DECISION TO PLANNING COMMISSION, CITY
 COUNCIL OR HEARING OFFICER**

PROJECT INFORMATION

Case No. of Appealed Project: PLN17198
 Project Address of Appealed Project: 963 Grosvenor Place
 Assigned Case Planner/City Staff: Danny Thai, Planner I

APPELLANT INFORMATION:

Printed Name: Steven Garrett Phone Number: (415) 613-4227
 Mailing Address: 967 Grosvenor Place Alternate Contact Number: _____
 City/Zip Code Oakland, CA 94610 Representing: _____
 Email: stevengarrett@yahoo.com

An appeal is hereby submitted on:

AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) Notice of Exemption for CEQA

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
- Other (please specify) Notice of Exemption for CEQA

(Continued on reverse)

(Continued)

- A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)** Granting an application to: **OR** Denying an application to:

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) _____

FOR ANY APPEAL: An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision. The appeal must be accompanied by the required fee pursuant to the City's Master Fee Schedule.

You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.

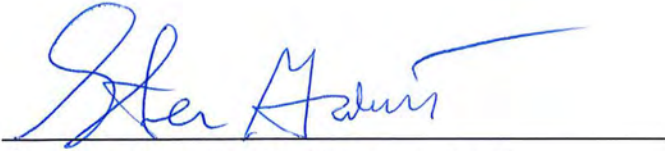
The appeal is based on the following: *(Attach additional sheets as needed.)*

Appeal related to Case No. PLN17198 for 963 Grosvenor Place regarding Approval of Application based on Attachment A, Attachment B and the CEQA Notice of Exemption. To support the appeal, please see "Attachment 1 to Appeal of Case No. PLN 17198 (963 Grosvenor Place), Exhibits 1.1-1.33 (previously submitted photos), Exhibit 2 (Hot Letter), Exhibit 3 (previous Public Comments submission dated 2/5/18) and all drawings and plans for 963 Grosvenor project (case file no. PLN17198).

Supporting Evidence or Documents Attached. *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.)*

(Continued on reverse)

(Continued)



Signature of Appellant or Representative of
Appealing Organization

4/9/18

Date

TO BE COMPLETED BY STAFF BASED ON APPEAL TYPE AND APPLICABLE FEE

APPEAL FEE: \$ _____

Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submittal. All fees are due at submittal of application.

Date/Time Received Stamp Below:

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Cashier's Receipt Stamp Below:

ATTACHMENT 1 to Appeal of Case No. PLN17198 (963 Grosvenor Place)

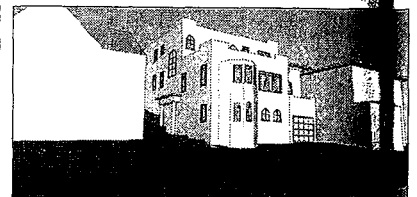
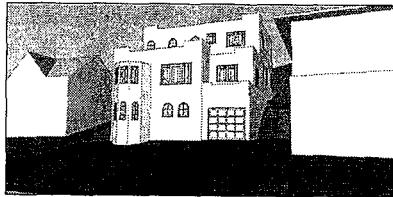
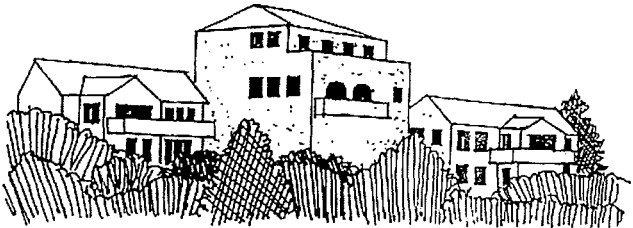
I, as well as at least 24 other neighbors who made public comments, have serious concerns regarding the impact the project located at 963 Grosvenor Place in Oakland, California (Case File No. PLN17198) ("Project") will have on our neighborhood.

This appeal of the decision to approve the Project is based on evidence previously presented prior to close of the written public comment period. The grounds for this appeal are based upon "error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record." Section 17.136.050 of the Oakland Municipal Code (O.M.C.) states that "Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria" such as the City of Oakland Design and Review Manual which provides important guidance in the form of criteria and guidelines. (Page I-1)

I. The Massive Elephant in the Room – The Project is Not Well Related to the Surrounding Area in terms of Setting, Scale, Bulk, and Height

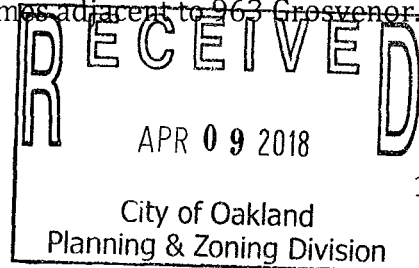
A picture, or in this case a side-by-side comparison, is worth a 1000 words.

On the right are representations of the Project as drawn by the applicant (see Plans A3.6) and on the left is *the example* from the City of Oakland's Design Review Manual showing "Designs that look conspicuously larger than other structures or disrupt the neighborhood" (Page 5-3).



I. Designs that look conspicuously larger than other structures or disrupt the neighborhood

The 963 Grosvenor Project looks strikingly similar to the Design Review Manual's example of a home that is considered "conspicuously large" and "disruptive" of the sample neighborhood. Both are larger than the other homes, both are bulky, both are about a story taller than adjacent homes, and both have step backs that do little to alleviate these problems. These issues are even more evident when reviewing pictures of the current contextual roofline for the homes adjacent to 963 Grosvenor (See e.g. Exhibits. 1.1-1.3, 1.5).



A. Scale, Massing, and Bulk

Acting Zoning Manager Robert D. Merkamp committed further error, abuse of discretion, and made decisions not supported by the evidence by doing the following:

1. The Approved 963 Grosvenor Plan Is the Largest Home within the Closest 20 Contextual Grosvenor Homes

Mr. Merkamp ignores objective data that demonstrates the 963 Grosvenor Project is “conspicuously large” and “disruptive” of the neighborhood because the Project is not well related to the surrounding area in terms of scale, bulk, and height.

The scale of the 3,328 square foot project is too large and out of context when compared to the surrounding Grosvenor homes considering the Project exceeds the mid-block 2,220.5 square foot average for the street by a staggering 150 % or 1,100 plus square feet. The context of surrounding mid-block Grosvenor homes between Trestle Glen and Sunnyhills on either side of the street illustrates how the proposed square footage far exceeds the norm.

916 Grosvenor Pl.	1,911	950 Grosvenor Pl.	2,242
953 Grosvenor Pl.	2,264	955 Grosvenor Pl.	2,595
959 Grosvenor Pl.	2,503	963 Grosvenor Pl.	1,454
964 Grosvenor Pl.	3,074	967 Grosvenor Pl.	1,740
968 Grosvenor Pl.	1,620	971 Grosvenor Pl.	2,464
972 Grosvenor Pl.	2,149	975 Grosvenor Pl.	2,400
976 Grosvenor Pl.	2,343	979 Grosvenor Pl.	2,201
981 Grosvenor Pl.	2,716	982 Grosvenor Pl.	2,237
985 Grosvenor Pl.	2,485	986 Grosvenor Pl.	1,659
989 Grosvenor Pl.	2,260	990 Grosvenor Pl.	2,093

Average Size of Surrounding Homes is 2,220.5 sq. feet

The proposed 3,328 square foot Project is by far the largest mid-block Grosvenor home and only 4 of the 20 mid-block Grosvenor homes are larger than 2,500 square feet. Despite this objective hard data suggesting the 963 Grosvenor Project may be too large, the Approval Letter concludes that the project is well within the allowable building envelope and consistent with the Guidelines. This conclusion is error, abuse of discretion, and not supported by the evidence for several reasons including:

- First, the square footage is an objective indicator of scale/bulk/mass of a property that is an objective indicator that should be given consideration and viewed as a potential “red flag.” The mere fact that the 963 Grosvenor proposal is the #1 home in square footage compared to 20 other contextual homes by a very large margin indicates that the project may be too big.

- Second, Mr. Merkamp, however, dismisses this data out of hand by stating **“If staff based the allowable sq. ft. solely on existing neighborhood home square footage, additional floor area would never be permitted and our housing resources never enhanced.”** This statement is an abuse of discretion and not supported by the evidence because the existing neighborhood home square footage is not the “sole” factor in determining whether City staff should consider this 3,300 sq. foot project as appropriate in size. Instead, O.M.C. Section 17.136.050A demands “Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria” such as the City’s Design and Review Manual. Accordingly, there are several various factors that should be considered in conjunction with the sheer square footage like roofline context, increased height, increasing backyard footprint, privacy/view concerns, etc. Therefore, it is unreasonable for Mr. Merkamp to discount square footage data as “red herring” data and ignore its impact in conjunction with other important factors.
- Third, Mr. Merkamp writes that Oakland’s “housing resources [would] never [be] enhanced” if “existing neighborhood home square footage” influenced the decision to permit “additional floor area.” That statement is particularly ironic in the context of the Project application because the owner investor is a professional real estate flipper with the stated goal to sale the house for the highest price possible. Transactions such as these will continue to increase the housing divide in the City of Oakland as other investors are sure to buy up properties and build to “maximize profit.” Investor Paul Martin has told me several times when discussing the scale and sheer size of the project that he is “building to market,” seeking to “maximize profit,” “make every single penny he can,” and “not looking to practice remodeling houses” for less profit. These are direct quotes. The point is that Mr. Martin and his company have absolutely no interest in building an appropriately scaled project that compliments the surrounding homes. He has repeatedly iterated to me that he will not be scaling down the project, digging down, including more step backs on the corners of the house, or reconfiguring the footprint to minimize impact because he is solely focused on not reducing the project’s square footage or increasing any building costs. Mr. Martin has told me that he requires at least a \$400,000 to \$600,000 cushion on top of his typical profit levels to ensure a successful and very profitable project. I do not feel that Mr. Martin and architect Jack Backus (due to various conflict issues as explained later) are looking out for the best interest of the community. Neighbors understand he wants to capitalize on his off-market purchase from an elderly owner at an under market price but it is very unsettling to many neighbors that his desire for absolute maximum profit is the driving force behind all decisions related to this project that will remain

long after he moves on to the next Oakland resident. Mr. Martin even told me in December that he considered selling the property for a profit to another buyer before the issue of “elder abuse” was brought up to the prospective buyer by someone else.

2. The Findings Rely on Non-Existent Homes and Other Non-Comparable Home Examples to Support Its Position

Mr. Merkamp erroneously cites to a home that does not exist (940 Grosvenor) or does not have a third-story step back (968 Grosvenor) to support his claim in the Approval Letter that “the proposed project uses this same strategy by stepping the addition back approximately 15’ from the front façade in a similar manner as the homes at 940 and 968 Grosvenor.” These examples are not sufficient evidence to support Mr. Merkamp’s position and using non-comparable homes to validate a point is an abuse of discretion.

3. The Findings Ignore Contextual Evidence that Roofline Height for Homes on the Street are “Flat” in Relation to Each Other

The Approval Letter cites a handful of homes that have three-story massing but ignores the crucial fact that these homes do NOT rise one story (or about 12 to 15 feet) above their immediate neighbors.

The current homes on Grosvenor have a very consistent roofline height context that increases gradually as Grosvenor gently slopes up towards Sunnyhills. (*See e.g.* Exhibits 1.1-1.3, 1.5-1.7). Therefore, it is very important to note that the top of the setbacks for most Grosvenor homes also conform to the orderly flat appearance of the rooflines as they gently increase up the hill. For instance, the height of the setback for 955 Grosvenor is approximately the same height as the roofline for the two homes on each side of it and not towering a full story above them.

In sharp contrast to the existing context, the 963 Grosvenor Project proposed roofline will look like a “hump” or “camel back” by having its top story tower over its two immediate neighbors’ predominant rooflines by 15 feet no matter how far the proposed setback is. In this case, the short setback of 14 feet for the top story (compared to 20-30 feet for other homes on the street) will not alleviate this affect when viewed from across the street. The proposed deviation in roofline height context for 963 Grosvenor would break a very consistent roofline height context for the entire street. (*See e.g.* Exhibits 1.1-1.10)

Therefore, Mr. Merkamp’s letter ignores this contextual evidence and engages in an abuse of discretion by simply ignoring these facts.

4. The Findings Incorrectly Assume that Any Project Within the “Allowable Building Envelope” is Justification for Approval

The Approval Letter also claims that the Project is “well within allowable building envelop [sic] based on these factors and, as discussed below, is consistent with the Guidelines.” The Findings, however, ignore a very important principle outlined in Criterion 6 discuss bulk projects states that:

“In some cases, application of Criteria 6 and 7 and their Guidelines may reduce the project’s zoning envelope (height limits, minimum setbacks and maximum lot coverage) from that allowed by Zoning Regulations. Buildings built to the maximum limits of the zoning envelope, particularly those with tall and broad facades, are often boxy, and monolithic and overwhelming in scale. The zoning envelope is not intended to define a by-right volume or massing that may be used to its full extent, but rather to provide sufficient flexibility for a variety of design solutions.” (page 6-1).

The mere fact that the suggested dimensions are within the allowable building envelope does not constitute evidence that no other issues exist regarding scale, massing, or bulk. This is also an abuse of discretion and error.

5. The Findings Do Not Recognize the Fact that Two Story Homes are the Prevailing Neighborhood Home

Mr. Merkamp’s representation that the “prevailing neighborhood development pattern includes large, two to three story single family homes” is erroneous and not supported by the evidence. As a preliminary matter, the neighborhood has a significant number of single story homes that undercuts his erroneous statement. More importantly, however, a brief stroll down any street in the neighborhood will reveal that the vast majority of homes in Crocker Highlands are two-stories and not three-stories as he incorrectly represents.

B. Evidence Ignored that the Setting is Not Well Related to The Surrounding Homes

1. The Project Architect Opines that Any Extension of the Rear Footprint Beyond 4 Feet “Would Have Greater Impact” on Neighboring Homes

Extending the rear footprint into the rear yard by 10 feet is invasive to privacy, disruptive of solar access, eliminate views, and serve as a towering constant eyesore soaring over the fence line. This negative impact has even been confirmed by Project’s architect Jack Backus who served in multiple capacities in shepherding the 963 Grosvenor Project through neighborhood Homeowner’s Association Process (“HOA”). In addition in his role as lead architect for the Project, he served as chairman of the Neighborhood Preservation Committee which reviews design

proposals and as a member of the HOA which votes to approve projects within the neighborhood.

The most recent proposal approved by Mr. Merkamp extends the footprint of the home a total of 10 feet further into the backyard rather than the original 4 feet submitted to the city for approval. These additional 6 feet are significant because the 2017 HOA Board – which included project architect Jack Backus - stated that **any** further intrusion into the backyard beyond 4 feet would have a very negative impact on the surrounding homes.

Although he “officially recused” himself in the final vote, Lisa Ray of the HOA confirmed to me that Mr. Backus participated in deliberations regarding the project and offered opinions about the impact/feasibility of alternative designs. The HOA Board wrote an email confirming initial approval for the first iteration of the project with a 4 foot expansion to the rear footprint by explaining that:

“Alternative options discussed for increasing the square footage of the house, such as extending the footprint into the yard at the rear of the house, would have a greater impact on the neighboring houses.” (emphasis added) (See Exhibit 2, attached July 20, 2017 email to neighbors).

In short, the very architect that championed this Project has already communicated that in his professional opinion (as well as his opinion as a HOA Board member and resident) that extending the footprint beyond 4 feet into the rear yard **“would have a greater impact on the neighboring houses.”** Therefore, this is further evidence that any extension beyond 4 feet into the backyard should be unacceptable based on any metric – particularly Mr. Backus’ professional opinion, the original 5 member HOA Board’s opinion, or in the context of surrounding homes. This evidence is particularly illuminating yet ignored by the Findings. Clearly, the 10 foot extension will negatively impact view, solar access, privacy, and invade the surrounding neighbors backyards.

Finally, During an August meeting at the property with the investor, lead architect Jack Backus suggested I “pay \$300,000 to Paul to forgo the additional 4 feet in the back of the house” because it would be a “good investment.” Jack Backus also argued that I am asking the investor to “carry the burden of a crappy design” when discussing alternative possible designs that would pose less impact on neighbors. The point of this is to show that even the applicants realize the value of privacy, solar access and views.

2. Ignoring Rear Footprint Context and Other Factual Errors

Mr. Merkamp’s approves of the 4 to 10 foot expansion of the footprint into the rear yard by stating it is not “inconsistent with neighboring properties” and that “the rear building wall is roughly the same as the neighbor to the south and 10’ less than

the neighbor to the north.” (p. 3) These conclusions are errors not supported by the evidence in the record when reviewing the plans. Mr. Merkamp also concludes that a large rear yard of 38-43’ is provided where only 30’ is required. The new building footprint is well within the allowable amount governed by the setbacks and lot coverage.” (p. 3) Reaching this conclusion could also be an error or abuse of discretion in light of his findings that the “prevailing neighborhood development pattern includes ... large rear yards for open space. Homes are largely consistent in terms of location on the lot.” (p. 3) First, a review of pictures show the consistent nature of the rear wall locations of the homes. (*See e.g.* Exhibits 1.5) Second, as previously discussed, Criterion 6 states “The zoning envelope is not intended to define a by-right volume or massing that may be used to its full extent.” (page 6-1).

II. The Proposed Design Will Not Protect, Preserve, or Enhance Desirable Neighborhood Characteristics.

With respect to parking, Mr. Merkamp states “Eleven out of twenty or 55% of contextual homes contain parking spaces in driveways at the front of the home. The same proportion of contextual homes contain garages.” The Findings conclude that the design revisions for a one car garage “will be consistent will [sic] the neighborhood parking context which provides all the required parking on-site.” Furthermore, Merkamp fails to acknowledge evidence that parking is only permitted on one side of the street due to the Alameda County Transit Bus line or that nearby curbs are marked in red and a handicapped street parking spot designation across the street take yet another spot.

Surprisingly, Mr. Merkamp concludes the 55% parking context figure is persuasive while ignoring the 95% context figure that Grosvenor mid-block homes are smaller than 2,750 square feet. To selectively rely on context is an error, an abuse of discretion, and failure to rely on evidence presented in the record.

The Findings state that the neighborhood has desirable characteristics such as “the side and rear setbacks are larger than required by Zoning.” Yet, the 963 Project seeks to push the maximum height limit. As previously discussed, building to the maximum allowable building envelope is not mean the applicant has the right to build to the full extent. (See Manual 6-1).

The Findings concede the structure is quite massive by stating “While, there is a three-story portion of the building as part of the project, many homes in the area also have three-story massing elements and volumes.” The important distinction that is being omitted in the findings is that any of the few nearby structures with a “third story” do so without towering over its neighbors. The third story of this project will create a “camel back” effect that will cause the top of the building to exceed the rooflines of surrounding homes by approximately 15 feet. A quick walk down the street among the context homes will show that the height of the homes

height gently increases in an orderly fashion from home to home as the gentle slope of Grosvenor Place gently increases.

The findings clearly recognize that “the subject site is located on a portion of Grosvenor Place where abundant tree canopy is provided and landscaping plentiful. This is an important characteristic of the neighborhood.” (Page 4) However, many neighbors will not be able to view this canopy based on the Project’s sheer height.

III. If situated on a hill, the design and massing of the proposed building relates to the grade of the hill.

The same objections raised in the rest of the appeal (i.e. Sections I, II and V) pertaining to massing, bulk, size, step backs are reiterated in this section.

IV. The Proposed Design Does Not Conform with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council

A. General Plan Consistency

The Findings should not support the conclusion that the Plans comply with the Land Use and Transportation Element (LUTE) for the city of Oakland. As previously discussed, it was an abuse of discretion, error, or failure to be supported by the evidence to find that the Plans complied with Objectives N3, N3.9, N6.1, and N7.1. The subject matter of these objectives have already been objected to in other parts of the appeal and are herein reiterated here.

B. Design Review Guidelines

“The City of Oakland Design Review Manual consists of both Criteria and Guidelines. The Criteria set forth the overall policy which is then expressed more specifically in the Guidelines. To be granted design review approval, a project must conform to all of the applicable Criteria. The Guidelines that follow each Criterion provide methods to interpret and help meet that Criterion.” (Manual I-1) Accordingly, a project must satisfy “all” of the applicable Criteria.

1. Failure to Protect Views of Oakland-Piedmont Hills and Surrounding Forest

Mr. Merkamp’s Approval Letter states “the new addition of a new upper-story [affecting views] has attracted the attention of the concerned neighborhood residents” – at least 24 neighbors to be precise. The Findings conclude that no “protected views” will be affected by stating “views of trees and the sky are not

protected views.” This determination is an error, abuse of discretion, and not supported by the evidence in the record” because views of the surrounding Oakland-Piedmont hills from primary living spaces are protected.

The definition of a “significant view” in section 1.1 for Criterion 1 regarding View Impacts in Neighboring Properties includes “a panoramic view of a major natural feature, such as the ... Oakland/Piedmont/Berkeley Hills, a large open hillside... etc.” The historic Crocker Highlands neighborhood sits in a forest with views of surrounding hills on the Oakland-Piedmont border which are a major *natural* feature. Looking at pictures they show a panoramic view of a major natural feature – the surrounding Oakland-Piedmont hills and forest. (*See e.g.* Exhibits 1.4-1.5, 1.8-1.9) Even Mr. Merkamp concedes in the findings that the “abundant tree canopy ... is an *important characteristic* of the neighborhood.” (Page 4) Yet, the Approval Letter only addresses view obstruction for the rear neighbor and ignores the views of adjacent neighbors.

The views are protected from “Primary living spaces” include living rooms, master bedrooms, view-oriented deck, or kitchens. All of these spaces can be found in the affected surrounding properties whether it is the views from the neighbor across the street at 964 Grosvenor or the kitchen or outside decks of neighbor at 959 Grosvenor. Section 1.2 states that view impact evaluation must be considered “for all existing residences abutting the project site or directly across the street” or other residences within 300 feet of the project site.

When a view is panoramic or wide angle, any obstruction of 10 degrees or more would be considered a view impact. As illustrated by pictures, the entire panoramic view from my master bedroom and other primary view spaces will be wiped out when the additional story is added and the rear of the building protrudes an extra 10 feet into the backyard. (*See e.g.* Exhibits 1.1-1.3, 1.5-1.7) Taking a look at the pictures, you can see trees and hillsides with homes speckled across them. I live near the Piedmont-Oakland border and thus views of these hills are explicitly covered by Criterion 1. Furthermore, Section 1.2C states the sight lines begin at a seated eye level and the “proposed roof lines should be a minimum of 2 feet below eye level but may need to be lower if significant distance separates the project and the impacted building.”

There have been minimal efforts to preserve views from the properties. For instance, Figure 1.4D: Building Depth Limit Technique requires noted that a “Rear portion of house reduced in height to not block view.” (Page 1-10). In contrast, the Approval Letter permits the rear story to extend and additional story (12 to 15 feet in the air) rather than maintaining the current roofline or requiring a mass step down to preserve view corridors. Rather than allowing a single story extension of the footprint, the plans will block view corridors. Furthermore, the view corridors (“cone of vision”) on page A0.2 are inaccurately drawn because they do not account for views that exist above the current roof of the 963 Grosvenor home. Also when I look out my windows, I usually look out of the window at an angle perpendicular to

the wall and not at an extreme angle as depicted by the drawing. Therefore, the view impacts in this drawing are dramatically underrepresented by these depictions. Mr. Merkamp has abused his discretion and made errors on relying on incomplete information and not following view guidelines.

2. Solar Access and Privacy

The project will have a significant privacy impact on both of the neighboring properties. The Findings make several misleading statements in its analysis.

First, it is not true that “the upper story is at a similar plane as the adjacent northern neighbor.” A 12 to 15 foot height difference between the pre-dominant roofline on my house and the Project’s house is not a “similar plane” by any measure. In addition, my small addition is at ground level rather than multiple stories, set back 30 feet instead of 14 feet, and 1/3 of the size of the top story at 963 Grosvenor. It is clearly an abuse of discretion and failure to rely on actual evidence in making an apples to oranges comparison.

Second, criterion 3 states that “a project shall make a reasonable effort to minimize privacy impacts from upper-level decks or windows on primary living spaces of residential lots abutting the sides or rear of the project site.” A “privacy impact” means “the ability to obtain direct, causal observation of a property’s inhabitants from an upper-level ... window at the side or rear of an abutting residence, especially from large windows ... that are unscreened and oriented towards facing windows.” “An upper-floor window is a window with a sill higher than eight feet above grade.” A “primary living space” includes master bedroom, other bedrooms, living areas, and main deck or patio. It is an abuse of discretion and the evidence does not support the conclusion that the privacy of 959 Grosvenor patio will not be invaded.

Third, it is completely false that “windows on the new addition are located such that there are no direct views into adjacent homes.” The 3 story building with large windows on the side and back of the house will allow direct casual observation of our master bedroom and other bedrooms from multiple viewing angles. For instance, the windows facing our property on page A3.3 are not opaque and will give direct access views into our bedrooms. The design also includes a large patio deck area that is just a few feet from our master bedroom. The large windows on the side and at the rear of the structure will allow the eventual permanent residents to peer down into the master bedroom as well as other bedrooms including our daughter’s and son’s bedrooms located along the side of the house. Please also note that the 45 degree solar incline plane drawing on page A0.2 does not account for all the placement of all windows that run the entire length of the property between 963 Grosvenor Place and 967 Grosvenor Place. The drawings previously submitted by the architect were incomplete as they did not include all windows located between our home and the project. The additional condition of Approval requiring adjustments to rear side windows does not account for all bedroom windows at 967

Grosvenor. This omission has repeatedly been brought up to the architect and the City of Oakland during the public comment period but remains unacknowledged. Therefore, it was error and an abuse of discretion to ignore this evidence.

Fourth, it is again false to claim a “6-8’ setback (where only 5’ is required) along the side property lines” where the side setback from the property is barely 5 feet at the front of the property. The plans reflect

Fifth, Mr. Merkamp acknowledges that shadows are actively cast into the actively used indoor area yet concludes there is no solar impact. This is an abuse of discretion and failure to base a decision on substantial evidence.

Site Design

As previously discussed and incorporating all arguments regarding the rear footprint of the property, the design is not within the building envelope and the very tall two story addition at the rear will extend 10 feet into the rear yard.

Building Design and Bulk

The findings again incorrectly assert that “a large side setback (6-8’) is already provided” where in reality the setback is a mere 5 feet at the front of the building. Furthermore, the findings again incorrectly states “many homes in the area have three-story massing and volumes. As such the project is consistent with the neighborhood.” Criterion 5(c), however, notes that the building design must “complement neighborhood scale, development patterns and orientation of structures and not disrupt neighborhood appearance.” All arguments previously made regarding this subject are reiterated including the fact that Section 5.11 provides a couple of perfect examples of how the proposed project does not relate well to neighborhood development patterns. A1 states “Radical shifts in building ... scale that disrupt neighborhood development patterns.” A3 states “Designs that look conspicuously larger than other structures or disrupt the neighborhood.” (Page 5-3) These principles should be sufficient enough that it was an abuse of discretion to approve the plans and the evidence did not support such a finding.

As previously discussed, Criterion 6 from the Design Manual is particularly informative as well as Criterion 7.

Neighborhood Compatibility

The Findings discuss “Neighborhood compatibility includes consistency in roof pitch and form, entry way context, building setbacks, surface materials, windows and openings, architectural detail, and landscape.” The Findings incorrectly state that there is “no consistent roof form context.” Therefore the previous criteria are reiterated.

V. Miscellaneous Issues

1. Wrong Design Review Criteria Cited

Acting Zoning Manager Robert D. Merkamp committed error, abuse of discretion, and his decision was not supported by evidence when he cited the incorrect authority for approving the project. He wrote that the application was “APPROVED for the reasons stated in Attachment A, which contains the findings required to support this decision.” (Approval Letter – p. 1). Page 3 of the Approval Letter titled “Attachment A: Findings” portion of the letter states:

[t]his proposal meets all the required findings under the Residential Design Review criteria (Section 17.136.050B) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in bold type; reasons your proposal satisfies them are shown in normal type.

The problem, however, is that Mr. Merkamp cited O.M.C. 17.136.050B which covers “Nonresidential Facilities and Signs” instead of O.M.C. 17.136.050A as the explicit grounds for approving the Project.

2. Project is Not Exempt from CEQA

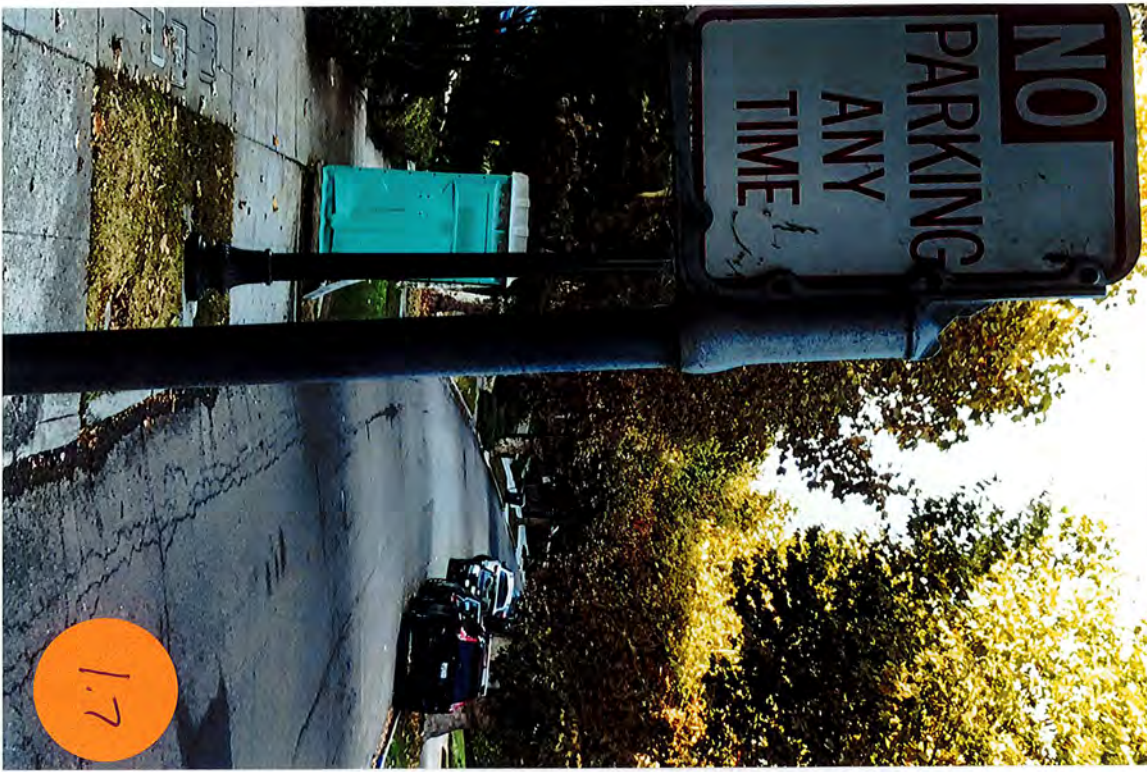
I object to the extent the City of Oakland improperly granted an exemption for the California Environmental Quality Act (CEQA) review. Mr. Merkamp granted a categorical exemption for Existing Facilities (Sec. 15301) and Projects consistent with a community plan, general plan and zoning (Sec. 15183). Furthermore, a public hearing was not granted pursuant to any city and county regulations for proper public review of the decision to exempt to project.

EXHIBIT 1.1-1.33
(Photos)

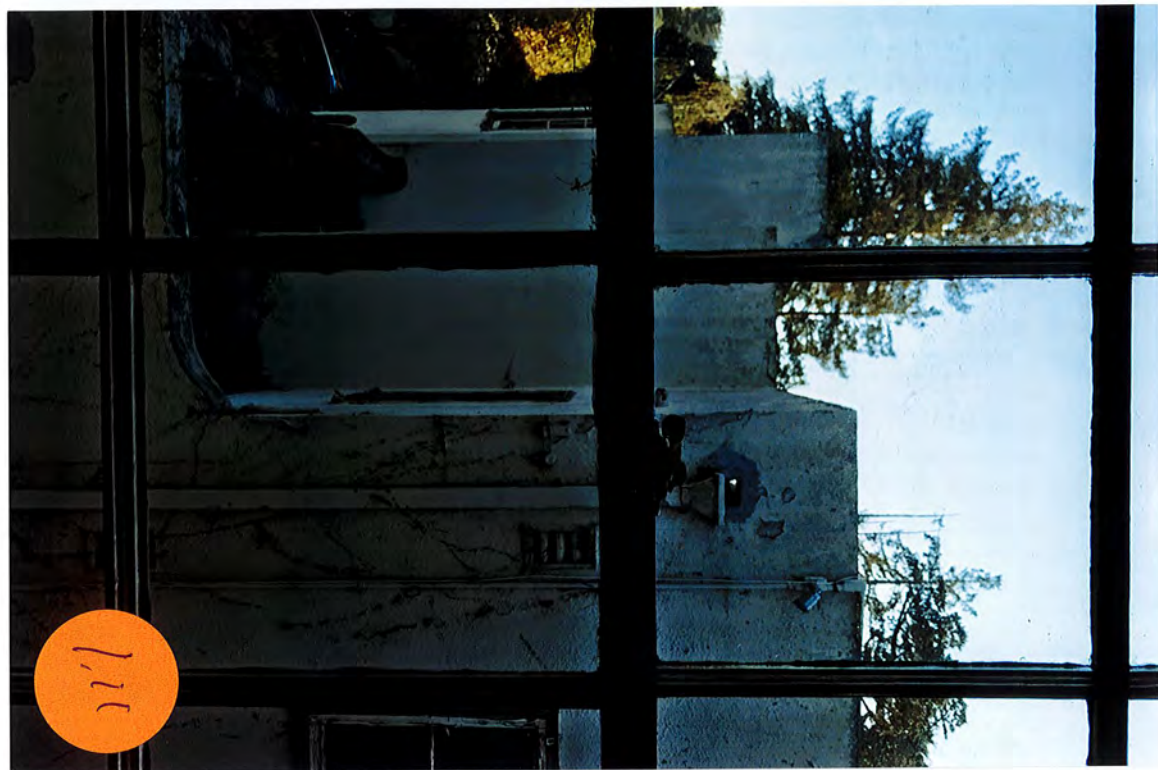


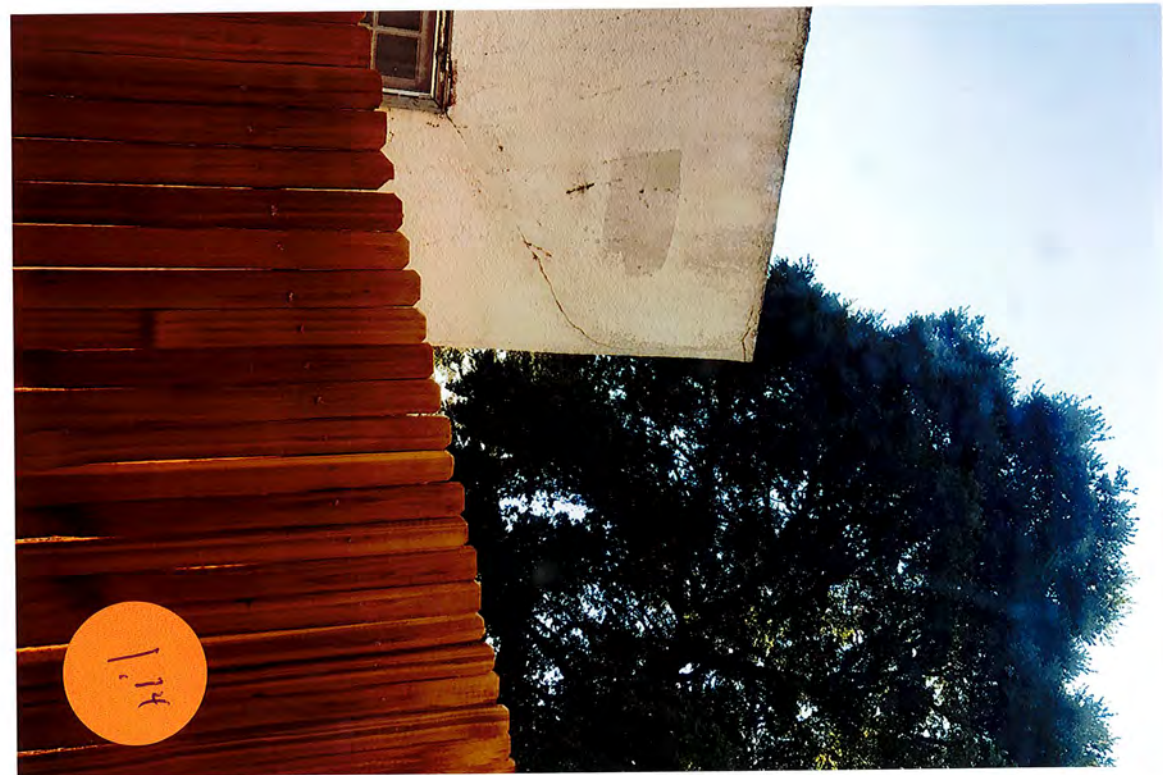




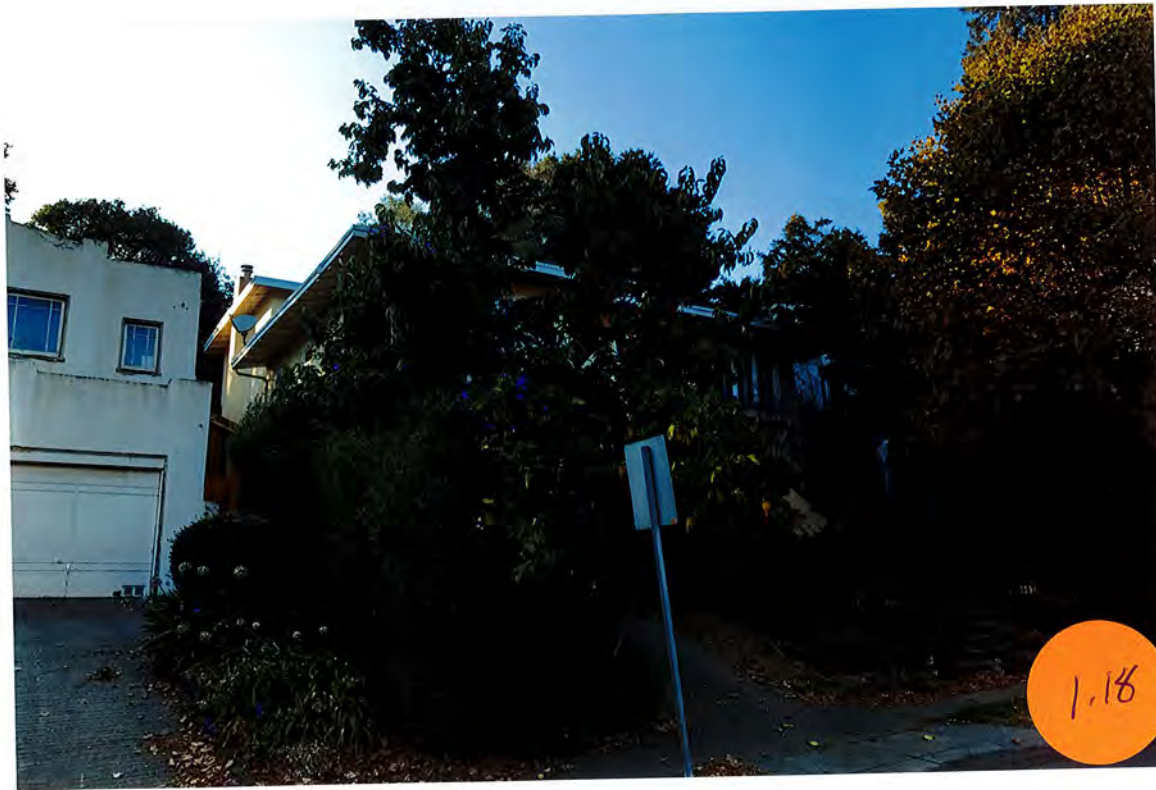










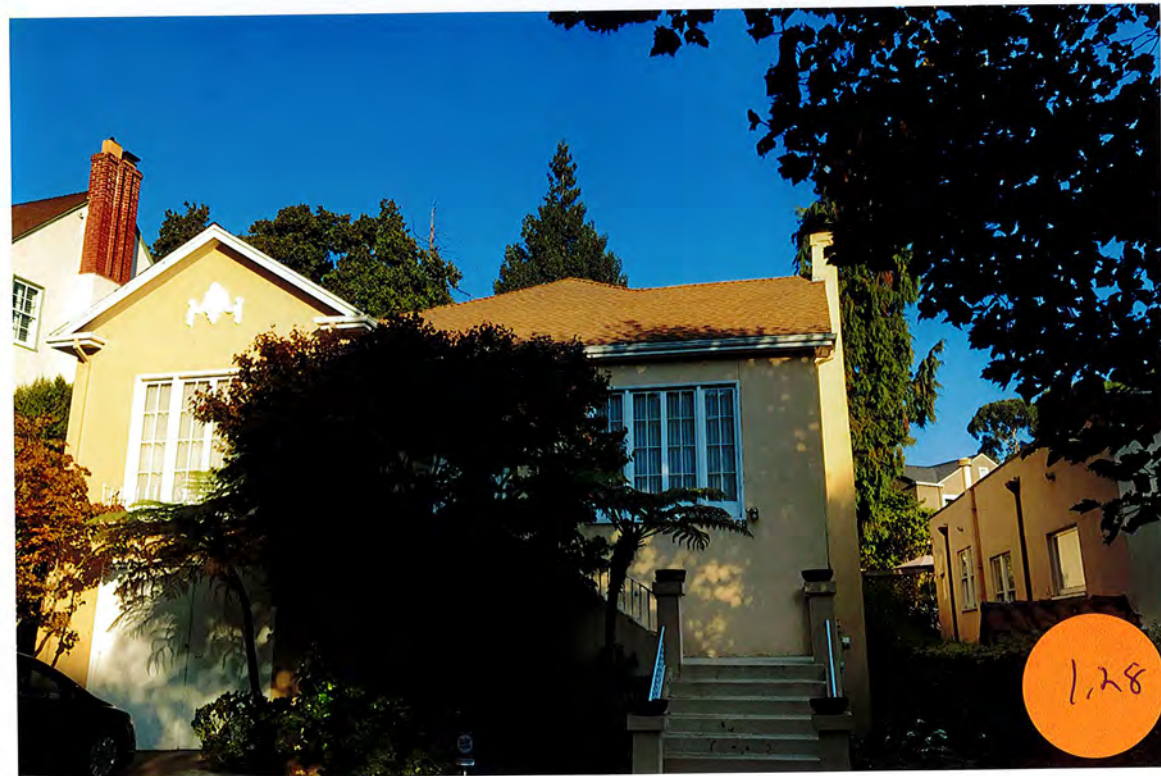






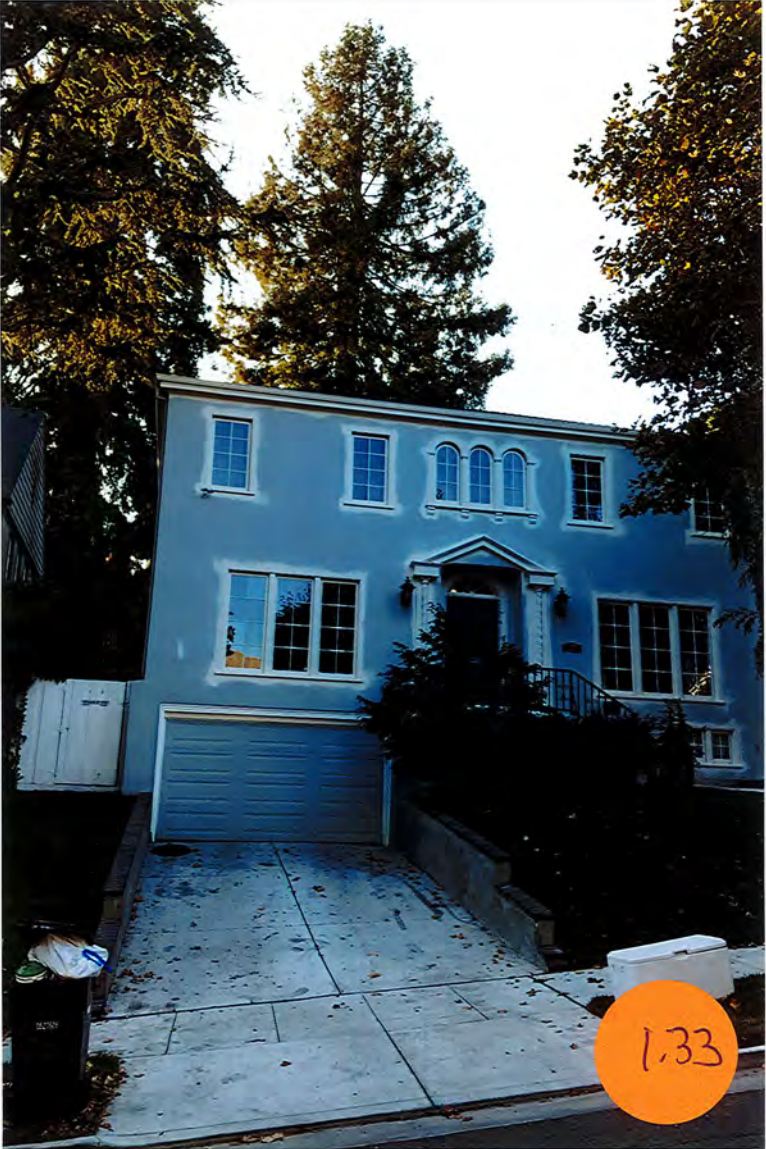












1.33

EXHIBIT 2
(HOA Letter)

Subject: 963 Grosvenor Status
From: Lisa (office@lakeshorehomes.net)
To: bethp@piratestudios.com; steved@piratestudios.com; stevengarrett@yahoo.com;
Date: Thursday, July 20, 2017 2:46 PM

Hi all,

Thank you for taking the time to attend last night's meeting and for providing input to the project and our review process. The Board voted to approve the application for 963 Grosvenor based on the following:

- The plans are architecturally correct in their adherence to the CCRs (design, setbacks, materials)
- The property owner has agreed to modifications that will maintain neighbor privacy, e.g. opaque windows or strategically placed planting of trees/hedges
- Alternative options discussed for increasing the square footage of the house, such as extending the footprint into the yard at the rear of the house, would have a greater impact on the neighboring houses

At the end of the Board meeting, we discussed the input you provided on the project review process. In hindsight, it is clear that I need to communicate the timelines and expectations of the project review so that the process is administered consistently. Ideally, applicants identify and invite neighboring property owners with enough notice for them to attend the Neighborhood Preservation Committee. In this case, the completion of the project plans was very close to the NP meeting date, which meant not all neighbors were notified before the first review. I apologize for the frustration that this has caused you.

Once the building permits have been applied for, neighbors can provide input to the city. I'll check with Jack to see what their timing is and will let you know.

Lisa

Lisa Ray | Administrator

E office@lakeshorehomes.net | **T** 510-451-7160 | **F** 510-451-8640

Lakeshore Homes Association | 907 Underhills Road | Oakland, CA 94610-2526

www.lakeshorehomes.net | Follow us on [Facebook](#)

EXHIBIT 3
(Public Comment
Documents)

Subject: Comments for Project at 963 Grosvenor Place - PLN17198

From: Steven Garrett (stevengarrett@yahoo.com)

To: dthai@oaklandnet.com;

Date: Monday, February 5, 2018 5:05 PM

Mr. Thai,

Please see attached revised comments for 963 Grosvenor Place project. Pictures to follow in separate email but email exhibit is attached below. Thank you.

Regards,

Steven Garrett

Attachments

- Oakland City Input on Feb 5 2018.pdf (110.85KB)
- July 2017 HOA Board Decision.pdf (79.37KB)

Comments Letter re: 963 Grosvenor Place - PLN17198

Dear Mr. Danny Thai,

We have lived in Crocker Highlands for over 10 years and are concerned how the scale of the revised proposal will impact our home as well other neighbors. We appreciate the opportunity to communicate concerns regarding the current design and how it will impact our home as well as other neighborhood homeowners. I address a few overarching concerns in the following paragraphs before addressing in more detail concerns regarding the scale and context of the proposed plan to add a new 3rd story (not a 2nd story as vaguely referenced in the plans) and approximately 1,860 sq. feet to the current existing 1,483 sq. foot home.

It is important to note that the applicants (Karen Kennally and Ross Ewoldson) on the Public Notice are no longer the owners of the property and that commercial developer Paul Martin and his co-investors are the true owners.

A primary concern is the fleeting interest the investors have shown to the neighborhood and project's impact it will have on neighbors. Investor Paul Martin has told me several times when discussing the scale and sheer size of the project that he is "building to market," seeking to "maximize profit," "make every single penny he can," and "not looking to practice remodeling houses" for less profit. These are direct quotes. He has since reiterated to me as well to other neighbors following the unveiling of this new design that he is "not changing anything." I understand he wants to capitalize on his off-market purchase from an elderly owner at an under market price but it is very unsettling to many neighbors that his desire for absolute maximum profit is the driving force behind all decisions related to this project. Mr. Martin's investment company does not have a long-term vested interest in Crocker Highlands. Mr. Martin told me in December that he considered selling the property for a profit to another buyer before the issue of "elder abuse" was brought up to the buyer by someone else during the property showing. The point is that Mr. Martin and his company have absolutely no interest in building an appropriately scaled project that compliments the surrounding homes.

Neighbors have encouraged Mr. Martin to explore scaling down the project, digging down, including more step backs on the corners of the house, or reconfiguring the footprint to minimize impact but he is solely focused on not reducing the project's square footage or increasing any building costs. Mr. Martin has told me that he requires at least a \$400,000 to \$600,000 cushion on top of his typical profit levels to ensure a successful and very profitable project. I do not feel that Mr. Martin and the architect as explained in much more detail below are looking out for the best interest of the community because they are not balancing the needs and character of the Grosvenor Place street with their desire for maximum profit.

Crocker Highlands is a historic neighborhood that was built up primarily in the 1920s and 1930s and many of the homes were designed by renowned architects.

More information about this historic neighborhood can be found at www.lakeshorehomes.net. This is what attracted me to the neighborhood. Crocker Highlands homes, such as ours, are blessed to have many sky and tree views from inside of the house as well as the backyard. However, the proposed project in its current form would erase or obstruct many of those views from neighbors houses as well as inside our house and the backyard. The project would also block sunshine from reaching many of these areas as well including sunbeams shining on the floors of our house. Long after Mr. Martin flips this house for maximum profit, I still want to see beautiful views from my master bedroom or have my son and daughter be able to see the sky and trees when they are playing in the house or sitting in the backyard.

A. The 3,300+ Square Foot Proposal is Out of Context for the Street

The scale of the project is too large and out of context when compared to the surrounding Grosvenor Place homes. The plan for the investors to build a mid-block 3,328 square foot home exceeds the mid-block 2,220.5 square foot average for the street by a staggering 150 % or 1,100 plus square feet. Perhaps a coincidence, but the large 3rd story level investors seek to add is about 1,100 sq. feet.

The design is by no means a minor addition but an attempt to pack in as many square feet as possible without regard to the context size in terms of the square footage for the surrounding homes. At over 3,300 square feet, the proposal is much-much larger than every mid-block home on Grosvenor Place between Trestle Glen and Sunnyhills according to my research. For context, a look at the surrounding Grosvenor homes on either side of the street illustrates how the scope of this project is an oversized outlier that far exceeds the norm.

916 Grosvenor Pl.	1,911	950 Grosvenor Pl.	2,242
953 Grosvenor Pl.	2,264	955 Grosvenor Pl.	2,595
959 Grosvenor Pl.	2,503	963 Grosvenor Pl.	1,454
964 Grosvenor Pl.	3,074	967 Grosvenor Pl.	1,740
968 Grosvenor Pl.	1,620	971 Grosvenor Pl.	2,464
972 Grosvenor Pl.	2,149	975 Grosvenor Pl.	2,400
976 Grosvenor Pl.	2,343	979 Grosvenor Pl.	2,201
981 Grosvenor Pl.	2,716	982 Grosvenor Pl.	2,237
985 Grosvenor Pl.	2,485	986 Grosvenor Pl.	1,659
989 Grosvenor Pl.	2,260	990 Grosvenor Pl.	2,093

Average Size of Surrounding Homes is 2,220.5 sq. feet

The average square footage for homes on the block is 2,220.5 square feet and only a single mid-block home on Grosvenor street barely exceeds 3,000 square feet and only 3 other homes are larger than 2,500 square feet. Therefore, in terms of size context relating to 16 of 20 nearby houses on the street, the project should almost

certainly be around 2,500 or less based on these numbers. Homes in excess of 3,000 are almost exclusively found on larger corner lots within the neighborhood. These immediate surrounding mid-block homes on Grosvenor Place (and not more distant streets) are the proper context when comparing the square footage of existing homes on the street with the proposed home.

B. The Scale of the Project will Deny Solar Access, Views and Privacy

The sheer square footage (height and length) including the 10 foot extension of the footprint into the backyard will significantly impact our home as well as neighboring homes in variety of ways.

First, the current 963 Grosvenor Place design does not make a reasonable effort to minimize solar access impacts on actively used indoor/outdoor areas of adjacent homes. For instance, the towering 3 story building will cast shadows on our home at 967 Grosvenor Place without attempting to increase setbacks from property line, step backs at the corners/sides of structures, or other mitigating design structures. The sky, trees, and even daylight at reasonable hours of the day will no longer be accessible due to the artificial eclipse being set in motion on a daily basis next door. Please also note that the 45 degree solar incline plane drawing on page A0.2 does not account for all the placement of all windows that run the entire length of the property between 963 Grosvenor Place and 967 Grosvenor Place.

Second, the 3 story building with large windows on the side and back of the house will allow direct casual observation of our master bedroom and other bedrooms from multiple viewing angles. For instance, the windows facing our property on page A3.3 are not opaque and will give direct access views into our bedrooms. The design also includes a large patio deck area that is just a few feet from our master bedroom. The large windows on the side and at the rear of the structure will allow the eventual permanent residents to peer down into the master bedroom as well as other bedrooms including our daughter's and son's bedrooms located along the side of the house. The drawings previously submitted by the architect were incomplete as they did not include all windows located between our home and the project.

Third, there are significant views of the surrounding forest including Oaks, Redwoods and other very-very tall trees. The views in living spaces such as the master bedroom, bedrooms and other living areas of longtime residents should not be compromised for the sake of "maximum profit." In addition, the investor has not constructed story poles to fully demonstrate the impact of the views. Please also note that the proposed deck and patio will approach the large Oak tree in the backyard. Also, the view corridors ("cone of vision") on page A0.2 are inaccurately drawn because they do not account for views that exist above the current roof of the house. Please see attached photos. Also when I look out my windows, I usually look out of the window at an angle perpendicular to the wall and not at an extreme angle

as depicted by the drawing. Therefore, the view impacts in this drawing are dramatically underrepresented by these depictions.

C. Even the Architect for this Project Has Previously Agreed that Any 10 Foot Extension into Rear Yard Will Negatively Impact Neighbors

We are particularly alarmed by the further extension of the proposed project into the rear yard as this will be particularly invasive to privacy, disruptive of solar access, eliminate views, and serve as a towering constant eyesore soaring over the fence line. This is a lose-lose-lose proposal as the structure is tall and invasive into the rear yard. All semblance of the quaint and secluded feeling will be ruined. This negative impact is clearly recognized by the architect Jack Backus and other HOA Board Members noted below.

The redesign will have a “greater impact on the neighboring houses” by allowing a 10 foot extension from the rear of the existing footprint. This is a direct quote from the 2017 Lakeshore Homeowner’s Association Board whose 5 person membership included the very architect on this project Jack Backus.

The “new” proposal seeks to extend the footprint of the home a total of 10 feet further into the backyard rather than the original 4 feet submitted for approval to the city. These additional 6 feet are significant because the 2017 HOA Board – which included project architect Jack Backus - stated that any further intrusion into the backyard beyond 4 feet would have a very negative impact on the surrounding homes.

It is very important to note that the architect Jack Backus was not only a Board member of the Lakeshore Homeowner’s Association but also served as chair of the Neighborhood Preservation Committee in 2017 which approved the first iteration of the project this past summer. Although he “officially recused” himself in the final vote, Lisa Ray of the HOA confirmed to me that Mr. Backus participated in deliberations regarding the project and offered opinions about the impact/feasibility of alternative designs. This fact is particularly interesting because Ms. Ray wrote an email to me explaining the Board’s 2017 vote that:

“Alternative options discussed for increasing the square footage of the house, such as extending the footprint into the yard at the rear of the house, would have a greater impact on the neighboring houses.” (emphasis added) See attached July 20, 2017 email to neighbors.

In short, the very architect that is submitting the revised design to the City of Oakland has already commented in his professional/personal opinion that extending the footprint beyond the original 4 feet from the first design would have a “greater impact on the neighboring houses.” Therefore, any extension beyond 4 feet into the backyard should be unacceptable based on any metric – particularly Mr. Backus’ professional opinion, the original 5 member HOA Board’s opinion, or in the

context of surrounding homes. Clearly, the 10 foot extension will negatively impact view, solar access, privacy, and invade the surrounding neighbors backyards. Even Mr. Backus has agreed that these impact concerns are valid but certainly he will not openly admit to this to the City of Oakland during the application process.

D. The Vertical/Horizontal Scale of the Project is Out of Context to the Surrounding Homes

It appears from the proposed plans that the investor intends to build to the maximum limits of the zoning envelope both horizontally and vertically.

The sheer size of the project will create a structure that towers over surrounding homes on either side and across the street) by one story (or about 12 to 15 feet). As one neighbor put it, the proposed roofline will have a “camel back” look no matter how far the proposed setback is. The short setback of 14 feet for the top story (compared to 20-30 feet for other homes on the street) will not alleviate this affect when viewed from across the street. It is also very important to note that the top of the setbacks for most Grosvenor homes conform to the orderly flat appearance of the rooflines as they gently increase up the hill. For instance, the height of the setback for 955 Grosvenor Place is approximately the same height as the roofline for the two homes on each side of it and not towering 12 to 15 feet above them.

The height and roofline contextual differences with homes on Grosvenor Place can be shown by the attached roofline photos. As shown by photographs in the roofline for the street, the uniform height of homes on Grosvenor Place along both sides of the street gently decline from uphill to downhill while driving down the street towards Trestle Glen. Extending the top of the current structure by approximately 15 feet will send this structure towering over the immediate surrounding homes as shown by multiple photographs.

The investor’s architect has not considered mitigating height designs such as maximizing below grade space to meet the investors’ stated goal of maximum square footage. Also, to avoid such an appearance and to reduce the overall height of the building, it does not appear that the architect considered that the Building Code permits up to 50% of a third story’s room’s floor to be less than the normally required room height requirements. Finally, the footprint of the proposed house will extend a mere 5 feet from the property line between 963 and 967 Grosvenor Place and not provide any increased side yards to offset the new proposed third story.

As previously discussed, the sheer size of the 3,300 plus square foot proposal is an outlier that exceeds the context of surrounding Grosvenor homes by an average of 1,100 square feet. Also as previously discussed, a 10 foot expansion of the footprint into the backyard will severely impact the neighbors. The height and footprint issues would not exist if the scale of project was appropriately limited to a number

much closer to 2,220.05 square feet than 3,326 square feet. These mass square footage problems can be easily addressed if the third story is limited altogether, or the new additional 6 x 17 foot protrusion at the rear of the house for the sake of a bigger kitchen island and master bedroom could easily be eliminated.

E. The Large Size of this Home will Exacerbate Parking Issues

Parking congestion is already an issue for Grosvenor Place as the City permits parking on only 1 side of the street because of the heavy traffic that regularly travels up and down the street. Grosvenor Place is heavily traveled during commute hours because residents use this street to gain access to Interstate 580. In addition, the Alameda County Transit Bus line B also travels down the street. The proposed 4 (or perhaps utilized as a 5 bedroom) home with a single car garage will greatly contribute to street parking issues in light of the limited street parking on one side of the street only, nearby curbs marked in red, and the handicapped street parking spot designation across the street.

F. Sheer Size is Out of Context to Historical Nature of Neighborhood

A majority of the homes in Crocker Highlands and on this street were built in the 1920s and 1930s with a unique appearance and charm (including the our home and the home to be remodeled). Older homes tend to be smaller. The new 3 story design does not the complement the neighborhood scale of surrounding homes and will disrupt the neighborhood appearance. The scale and bulk of the 1,800 plus square foot addition is not well integrated into the existing overall design. The average home size for the street is much smaller than the proposed 3,300 square foot project. This bulky 3 story building is a radical departure of typical size and mass for homes on Grosvenor Place and will look conspicuously larger.

Looking at the context of the immediate surrounding homes on Grosvenor Place demonstrates that the proposed 3 full story building is not compatible with the street. The design differences are evident in the attached photos and those included in the application.

G. Posting Requirements

I noticed the most recent posting did not include a full listing of the plans or the same detailed instructions as the first posting. Some other neighbors may be confused but Mr. Thai was nice enough to forward me a set of completed plans.

H. Lakeshore Homeowner's Association Issues

*** Please note these issues have been included to add context to a very murky neighborhood process that is ongoing. These issues along with the Board email cited above demonstrate the split loyalties of Mr. Backus between balancing the neighborhood's interest and those of his client Paul Martin.***

The applicant may also advocate that the preliminary plans were approved by the Lakeshore Homeowner's Association but there are several problems that is being addressed internally within this association or perhaps Court if necessary.

During this process, several neighbors have developed concerns regarding: (1) the HOA Board's failure to follow its own procedures regarding notice and approving incomplete applications; (2) the inherent conflicts created by the seats Jack Backus currently holds on both the Neighborhood Preservation Committee and HOA Board in light of his involvement with the project as an architect; (3) the resulting tainted votes by the Board and Committees due to their working relationships with Jack Backus as he sits and votes on issues before sliding to other side of the table before returning to his original side of the table; and (4) the potential liability the Board may be creating for the Association.

The HOA procedures were compromised as architect Jack Backus championed the project while sitting on these two important neighborhood boards. For instance, I was not given notice of the Neighborhood Preservation Committee meeting vetting this project and Mr. Backus attempted to gain my "sign-off" on the project the night before the HOA Board was set to vote on the entire proposal. In short, the investor and Mr. Backus have been pushing this project full steam ahead at the neighborhood level without proper notifications and discussions. In this instance, Jack Backus actively participated in the approval process by: (1) gathering signatures for the project while arguably acting with the "color of authority" of the HOA, (2) serving as the face of the project with the HOA and City for several weeks until substantial opposition was raised, (3) flippantly suggested I make a \$300,000 payment to Paul Martin to secure sought after design concessions as an "investment" to preserve my views/privacy/sunshine, (4) received over \$20,000 in design fees according to the investor, and (5) the HOA Board (including Mr. Backus) disregarded application procedures and notice provisions for neighbors during the process.

Based on these events and the facts below, the Lakeshore Homeowner's Association has not properly vetted the project in part because:

- Jack Backus Architects was hired as the architect for the remodel of 963 Grosvenor Place by investor Paul Martin through his investment company.
- Jack Backus Architects was previously hired by investor Paul Martin to remodel 842 Grosvenor Place. Mr. Martin wrote that he has worked with Jack before and that this project is a "not a 1 off project for any of us." Mr.

Martin wrote that he has been working in the neighborhood since 2010 and that this will be his third project near the Trestle Glen/Grosvenor intersection since 2014.

- Jack Backus is a member of the 5 person Neighborhood Preservation Committee that reviews the design of projects.
- Jack Backus is a member of the 5 person Lakeshore Homeowners Association that has final approval on projects in the neighborhood.
- The investor Paul Martin has repeatedly told me that he intends to “build to what the market wants” and “make every dollar possible.”
- In light of two other recent projects in the neighborhood, Paul Martin stated the HOA has confidence in his capabilities because they know he “do[es] good work” and “the Board knows and trusts me.”
- For several weeks, Jack Backus served as the primary interface with me and other neighbors and even presented the plan for final approval in June without the investor being present.
- Jack Backus contacted several neighbors seeking signatures of “agreement” for the project.
- I was given no notice about the Neighborhood Preservation meeting regarding architectural review and did not learn of their vote until after the vote.
- Jack Backus contacted me a few days before the June HOA Board meeting and presented the plans less than 24 hours before the HOA Board was set to vote on final approval of the project. Jack asked me if I would sign off in “agreement” to the project at the end of our initial meeting.
- In response to suggested alternative designs, investor Paul Martin claims that he spent in excess of \$20,000 on drawings with Jack Backus.
- At the June HOA Board meeting, I objected to the lack of notice about the project and noted that I have had to seek neighbor approval for even simple projects like fences.
- President Liz Sterns verbally commented that “Jack you know that is a violation of rules” when discussing the lack of notice given to neighbors.

- The initial HOA meeting for final approval was delayed by one-month but my request for the matter to be presented to the Neighborhood Preservation committee with proper notice was denied.
- While on vacation, I phoned in to the July HOA Board meeting to relay several substantive and procedural objections. With regard to procedural objections, I noted that the property application was incomplete, that I had no opportunity to present objections at the Neighborhood Preservation committee, and that I was not given an opportunity to review new documents brought by Mr. Backus to the July hearing despite previous requests to do so.
- The HOA approved an admittedly incomplete “Application for Changes to Property” because page 4 was not submitted to the HOA by Paul Martin. Page Four primarily deals with neighbors either impacted by the project or notified of the project. The Application even states “Page Four is part of the Application for Changes to Property for the referenced property. The Application is incomplete until pages three and four are filled out.” See <http://lakeshorehomes.net/wp-content/uploads/2017/03/Changes-to-Property-appl-030717.pdf>
- The HOA approved the current plan proposal at the July Board meeting and acknowledged in writing that “... I need to communicate the timelines and expectations of the project review so that the process is administered consistently. Ideally, applicants identify and invite neighboring property owners with enough notice for them to attend the Neighborhood Preservation Committee. In this case, the completion of the project plans was very close to the NP meeting date, which meant not all neighbors were notified before the first review. ...”
- I learned following the departure of other neighbors at the meeting that Jack Backus answered additional questions and provided opinions on design impact to the Board during deliberations even though others were no longer present.
- During an August meeting at the property with the investor, Jack Backus suggested I “pay \$300,000 to Paul to forgo the additional 4 feet in the back of the house” because it would be a “good investment.” Jack Backus also argued that I am asking the investor to “carry the burden of a crappy design” when discussing alternative possible designs that would pose less impact on neighbors.
- Jack Backus never resigned his position after these conflict of interest issues were raised. He served his term out through December 2017.

- Jack Backus or the Paul Martin did not resubmit a new application for approval of the new design.

Thank for reviewing my lengthy letter but wanted to raise these important issues as my wife and kids will be living in the shadow of this structure if permitted to move forward as proposed for decades to come.

Regards,

Steven Garrett
967 Grosvenor Place

Subject: 963 Grosvenor Status
From: Lisa (office@lakeshorehomes.net)
To: bethp@piratestudios.com; steved@piratestudios.com; stevengarrett@yahoo.com;
Date: Thursday, July 20, 2017 2:46 PM

Hi all,

Thank you for taking the time to attend last night's meeting and for providing input to the project and our review process. The Board voted to approve the application for 963 Grosvenor based on the following:

- The plans are architecturally correct in their adherence to the CCRs (design, setbacks, materials)
- The property owner has agreed to modifications that will maintain neighbor privacy, e.g. opaque windows or strategically placed planting of trees/hedges
- Alternative options discussed for increasing the square footage of the house, such as extending the footprint into the yard at the rear of the house, would have a greater impact on the neighboring houses

At the end of the Board meeting, we discussed the input you provided on the project review process. In hindsight, it is clear that I need to communicate the timelines and expectations of the project review so that the process is administered consistently. Ideally, applicants identify and invite neighboring property owners with enough notice for them to attend the Neighborhood Preservation Committee. In this case, the completion of the project plans was very close to the NP meeting date, which meant not all neighbors were notified before the first review. I apologize for the frustration that this has caused you.

Once the building permits have been applied for, neighbors can provide input to the city. I'll check with Jack to see what their timing is and will let you know.

Lisa

Lisa Ray | Administrator

E office@lakeshorehomes.net | **T** 510-451-7160 | **F** 510-451-8640

Lakeshore Homes Association | 907 Underhills Road | Oakland, CA 94610-2526

www.lakeshorehomes.net | Follow us on [Facebook](#)

Subject: Fw: Photos (2 of 7) for Comment Letter re: 963 Grosvenor Place (PLN17198)
From: Steven Garrett (stevengarrett@yahoo.com)
To: dthai@oaklandnet.com;
Date: Monday, February 5, 2018 5:10 PM

Mr. Thai,

I am resending previous pictures for ease of reference.

----- Forwarded Message -----

From: Steven Garrett <stevengarrett@yahoo.com>
To: "dthai@oaklandnet.com" <dthai@oaklandnet.com>
Sent: Monday, September 11, 2017 3:43 PM
Subject: Photos (2 of 6) for Comment Letter re: 963 Grosvenor Place (PLN17198)

Danny Thai.

Attached is email 2 of 6 to support Comment Letter. Note the consistent roofline of the surrounding homes.

Thank You.

Steven Garrett

Attachments

- 963rooflineviewfromstreet.JPG (2.99MB)
- BackyardViewfrom967.JPG (2.27MB)
- Rooflineview2.JPG (3.48MB)
- Rooflineview3.JPG (3.27MB)
- Rooflineviewfrom967.JPG (3.71MB)

Subject: Fw: Photos (3 of 7) for Comment Letter re: 963 Grosvenor Place (PLN17198)
From: Steven Garrett (stevengarrett@yahoo.com)
To: dthai@oaklandnet.com;
Date: Monday, February 5, 2018 5:12 PM

Mr. Thai,

I am resending previous pictures for ease of reference.

----- Forwarded Message -----

From: Steven Garrett <stevengarrett@yahoo.com>
To: "dthai@oaklandnet.com" <dthai@oaklandnet.com>
Sent: Monday, September 11, 2017 3:51 PM
Subject: Photos (3 of 6) for Comment Letter re: 963 Grosvenor Place (PLN17198)

Danny Thai.

Attached is email 3 of 6 to support Comment Letter. Homes for context and rooflines.

Thank You.

Steven Garrett

Attachments

- 950GrosvenorPl.JPG (2.40MB)
- 955GrosvenorPl.JPG (2.56MB)
- 959GrosvenorPl.JPG (3.67MB)
- Rooflineviewwith959.JPG (2.86MB)
- Rooflineviewwith967.JPG (2.91MB)

Subject: Fw: Photos (4 of 7) for Comment Letter re: 963 Grosvenor Place (PLN17198)
From: Steven Garrett (stevengarrett@yahoo.com)
To: dthai@oaklandnet.com;
Date: Monday, February 5, 2018 5:14 PM

Mr. Thai,

I am resending previous pictures for ease of reference.

----- Forwarded Message -----

From: Steven Garrett <stevengarrett@yahoo.com>
To: "dthai@oaklandnet.com" <dthai@oaklandnet.com>
Sent: Monday, September 11, 2017 3:56 PM
Subject: Photos (4 of 6) for Comment Letter re: 963 Grosvenor Place (PLN17198)

Danny Thai.

Attached is email 4 of 6 to support Comment Letter. More context homes showing roofline and lack of bulkiness.

Thank You.

Steven Garrett

Attachments

- IMG_7106.JPG (3.61MB)
- IMG_7107.JPG (3.48MB)
- IMG_7109.JPG (2.13MB)
- IMG_7110.JPG (2.66MB)
- IMG_7112.JPG (3.86MB)

Subject: Fw: Photos (5 of 7) for Comment Letter re: 963 GRosvenor Place (PLN17198)
From: Steven Garrett (steven Garrett@yahoo.com)
To: dthai@oaklandnet.com;
Date: Monday, February 5, 2018 5:20 PM

Mr. Thai,

I am resending previous pictures for ease of reference.

----- Forwarded Message -----

From: Steven Garrett <steven Garrett@yahoo.com>
To: "dthai@oaklandnet.com" <dthai@oaklandnet.com>
Sent: Monday, September 11, 2017 4:01 PM
Subject: Photos (5 of 6) for Comment Letter re: 963 GRosvenor Place (PLN17198)

Danny Thai.

Attached is email 5 of 6 to support Comment Letter. More context homes and roofline.

Thank You.

Steven Garrett

Attachments

- 971GrosvenorPl.JPG (3.16MB)
- 975GrosvenorPl.JPG (3.99MB)
- IMG_7118.JPG (2.60MB)
- IMG_7119.JPG (3.18MB)
- Rooflinefromacrossstreet.JPG (2.01MB)

Subject: Fw: Photos (6 of 7) for Comment Letter re: 963 Grosvenor Place (PLN17198)
From: Steven Garrett (stevengarrett@yahoo.com)
To: dthai@oaklandnet.com;
Date: Monday, February 5, 2018 5:22 PM

Mr. Thai,

I am resending previous pictures for ease of reference.

----- Forwarded Message -----

From: Steven Garrett <stevengarrett@yahoo.com>
To: "dthai@oaklandnet.com" <dthai@oaklandnet.com>
Sent: Monday, September 11, 2017 4:06 PM
Subject: Photos (6 of 6) for Comment Letter re: 963 Grosvenor Place (PLN17198)

Danny Thai.

Attached is email 6 of 6 to support Comment Letter. Note no parking on one side of street and how Grosvenor Place street slopes upward. Also, note small garage and driveway.

Thank You.

Steven Garrett

Attachments

- 963closeuproofline.JPG (2.10MB)
- 963Driveway.JPG (4.56MB)
- NoParkingonGrosvenorPl.JPG (2.42MB)
- Viewfrom963showingNoParking.JPG (4.10MB)

Subject: ** New Photos and Extra Comment (7 of 7) for Letter re: 963 Grosvenor Place (PLN17198)

From: Steven Garrett (stevengarrett@yahoo.com)

To: dthai@oaklandnet.com;

Date: Monday, February 5, 2018 6:51 PM

Mr. Thai,

This email bounced back so here are a few photos regarding the contexts of the setbacks as mentioned in my comments letter with a couple of thoughts explaining how it relates to the project as noted in the revised Comments letter.

My main point of these pictures is essentially a setback (whether 5 feet or 14 feet or 25 feet) should not permit the structure to shoot high in to the sky because its impact will be felt whether living in the shadows next door or viewing the project from the street or inside my indoor/outdoor living areas. Too tall is too tall and pushing the setback further into the yard will do no good for immediate neighbors.

My other main point is that the solution is NOT to push the structure deep into the backyard either (i.e. greater than original proposed 4 foot extension into the rear yard) because that has already been universally agreed by the architect on the project and the Board as having a very negative impact on the immediate neighbors. See comments letter for more details and the HOA email.

Please do not ruin the neighbors living experiences for the next few decades so that the largest most profitable design can be built and flipped without considering how out of context the size of the project truly is. The neighbors have to live with the project that remains long after the investors have moved on to their next project. Story poles would truly show how much of an impact this proposal would have.

A 3,300 square foot project is simply way out of context when considering surrounding homes from a square footage perspective, roofline perspective, etc. The current street rooflines and 2,220 square foot average for surrounding rooms offers a very practical guide in regulating the scale of the proposed 963 Grosvenor Place project. The acceptable range for this project should be a maximum 2,600ish square feet in which all but 1 of 20 homes on Grosvenor Place are that size or smaller. Scaling the project to an appropriate size in context of the surrounding homes will alleviate BOTH the height issues as well as the rear yard issues while permitting Mr. Martin to make a profit selling the home.

As for these attached pictures to illustrate the above points, please note in particular that the picture of 955 Grosvenor Place show that its top story setback (approximately 20 feet from my estimation) is still the same maximum height as the home next to it which is 959 Grosvenor Place. The top story and its setback for 955 Grosvenor meets the surrounding homes roofline and does not rise 15 feet above the homes next to it as the applicants for 963 Grosvenor Place are seeking. I also included a picture of the old small 1 bedroom addition at the back of my house (25-30 feet setback) that rises just a few feet above the current roofline of 963 Grosvenor Place. This shows that the small addition to my house is nothing like the proposed massive and bulky 1,160 square foot addition that is being proposed next door. Again, the context and trend of Grosvenor Place homes as shown in these pictures as well as others are that the rooflines gently increase up the street. Please also note from other pictures that homes do not jut far back into the rear yard of

each property.

Thank you.

Regards,

Steven Garrett

p.s. Please let me know if you have any questions.

Attachments

- IMG_9868.jpg (2.26MB)
- IMG_9859.jpg (3.17MB)
- IMG_9865.jpg (2.70MB)
- IMG_9863.jpg (4.00MB)