



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: February 10, 2010

APPLICATION: **SITE DEVELOPMENT PERMIT NO. SD10-0001**

**APPLICATION
SUMMARY:**

A request to allow for an exception from the Milpitas Municipal Code Title XI, Chapter 10, Section 4.05 B. for the front yard coverage development standards of a residence.

LOCATION: 1962 Everglades Drive (APN: 088-26-017)

APPLICANT: Surinder, Santokh, and Baljit Gill, 1962 Everglades Drive, Milpitas, CA 95035

OWNER: Surinder, Santokh, and Baljit Gill, 1962 Everglades Drive, Milpitas, CA 95035

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 10-012 approving the project subject to the conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation: Single Family Low Density / Single Family Residential (R1-6)

PUD: Planned Unit Development #5

CEQA Determination: Categorically exempt from further environmental review pursuant Section 15301 for Existing Facilities.

PLANNER: Tiffany Brown

ATTACHMENTS: A. Resolution No. 10-012
B. Letter from the Applicant

LOCATION MAP



No scale

BACKGROUND

A complaint was filed with the City of Milpitas Neighborhood Services Division on August 21, 2009 in regards to a front yard of a single family residence being completely paved over. Staff inspected the property on August 28, 2009 and contacted the property owner. The applicant contacted staff and was provided with the Ordinance requirements. Staff presented the applicant with two options: 1) Comply with the Zoning Ordinance development standard or 2) apply for an exception to the ordinance requirements per Section 10.4.05B1 of the Milpitas Zoning Code.

On January 8, 2010, Baljit Gill submitted an application for a Site Development Permit to request for an exception to the development standards for the front yard at 1962 Everglades Drive.

PROJECT DESCRIPTION

Subject Site

The project site and surrounding properties are zoned Single Family Residential. The east side of this property is adjacent to Ben Rodgers Park. See map on the previous page.

**Figure 1:
Photograph of front yard**



Zoning Ordinance Section 4.05(B)(1)(a) has certain restrictions on the maximum allowable amount of paving of a Single Family Residence's front yard:

A portion of the required front yard may be paved. The width of the area that may be paved shall not exceed the width of the garage, or fifty percent (50%) of the lot width measured at the front property line, whichever is greater. Patios within the required front are included in this calculation. Walkways, which are not used for vehicular parking, do not count towards coverage limits. Exceptions may be granted by the Planning Commission after public hearing notification, per Section XI-10-64 of this Chapter, for a Site Development Permit application, as described in Section XI-10-57.03 of this Chapter.

When looking at Figure 1, it shows that the front yard is paved over more than 50%. The primary purpose and intent of the Section 4.05(B)(1)(a) standard is to prevent the paving over of front yards for parking.

As permitted by the Milpitas Municipal Code, the applicant is now requesting an exception to the maximum paving restriction from the Planning Commission. Under the Code, an exception may be granted only if the Planning Commission issues a Site Development Permit and makes the following findings:

1. The layout of the site and design of the paved front yard and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.
2. The project is consistent with the Milpitas Zoning Ordinance.
3. The project is consistent with the Milpitas General Plan.

The applicant provided a letter explaining the intent of paving over his front yard (*See Attachment B.*) Staff visited the site to see if the new paving across the front of the yard was intended to be used as a driveway. Figure 1 depicts that the paving, except for the location directly in front of the garage is not accessible by a car in that:

- 1) There is no curb cut to allow for a car to drive into the paved area from the street;
- 2) The distance between the landscaped island and the front door entryway is too narrow for a car to pass through; and
- 3) Staff recommends a condition of approval that will remove the pavers lined against the side walk that is not a part of the minimum required for the driveway and in its place add a three foot landscaped area to ensure that this portion of the yard will not be used as a driveway.

Neighborhood street scene and character

The existing front yard character of Everglades Street includes landscaping on half of the yard, and paving in front of the garage for the driveway and some continuation of the paving along the side yard near the driveway. If approved, this home will be the first home on the block that has mostly paved over the front yard.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 1
General Plan Consistency

Policy	Consistency Finding
<i>2.a-I-10: Foster community pride and growth through beautification of existing and future development.</i>	Consistent.

The new pavers with landscaping will foster community pride through beautification provided that the landscaped areas will be easier to maintain for the residence and the likelihood of weeds and overgrowth is now minimal. The configuration of the hardscape does not permit the parking of vehicles and therefore does not promote an unsightly appearance and will not provide cause to detract from the neighborhood.

Zoning Ordinance

The project proposal is consistent with the Milpitas Zoning Ordinance in that as conditioned the front yard will meet the purpose and intent of the development standard and not turn the entire front yard into one large driveway; and that the layout of the site and design of the proposed landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities in that...

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The property owner did not realize that paving over more than 50% of his front yard was inconsistent with our Milpitas Municipal Code. Staff brought this to his attention and now the property owner is following the City’s Municipal Code procedures, requesting the Commission to find that the project meets the intent of the Zoning Ordinance and General Plan and that the pavers in the front yard are compatible and aesthetically harmonious with adjacent and surrounding development.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing and adopt Resolution No. 10-012 approving Conditional Use Permit No. SD10-0001, subject to the Conditions of Approval.

Attachments:

- A. Resolution No. 10-012
- B. Letter from the Applicant

RESOLUTION NO. 10-012

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT NO. SD10-0001, TO ALLOW FOR AN EXCEPTION FROM THE MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 4.05(B)(1)(a), LOCATED AT 1962 EVERGLADES DRIVE.

WHEREAS, on January 8, 2010, an application was submitted by Baljit Gill, 1962 Everglades Drive, Milpitas, CA 95035, to allow for an exception from the Milpitas Municipal Code Title XI, Chapter 10, Section 4.05 (B)(1)(a) restrictions on coverage of residential front yards. The property is located within the Single Family Residential Zoning District (APN 088-26-017); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt; and

WHEREAS, on February 10, 2010, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is the project is categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities in that the proposed coverage of front yard surfaces and landscaping constitutes the minor alteration and maintenance of private topographical features and landscaping.

Section 3: The project is consistent with the General Plan Implementation Policies 2.a-I-10, in that the new pavers with landscaping will foster community pride through beautification provided that the landscaped areas will be easier to maintain for the residence and the likelihood of weeds and overgrowth is now minimal.

Section 4: The project is consistent with the Milpitas Zoning Ordinance in that as conditioned the front yard will meet the purpose and intent of the development standard and not turn the entire front yard into one large driveway;

Section 5: The layout of the site and design of the proposed landscaping are compatible and aesthetically harmonious with adjacent and surrounding development in that the paving and landscape improvements use colors and materials that are consistent with the overall look and feel of the home and blend with the neighboring residential structures.

Section 6: The Planning Commission of the City of Milpitas hereby approves Site Development Permit No. SD10-0001, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on February 10, 2010

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February 10, 2010, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
Erik Larsen				

EXHIBIT 1

**CONDITIONS OF APPROVAL
SITE DEVELOPMENT PERMIT NO. SD10-0001**

A request to allow for an exception from the Milpitas Municipal Code Title XI, Chapter 10, Section 4.05 (B)(1)(a) for the front yard coverage development standards of a residence.
Address (APN: 088-26-017)

General Conditions

1. The applicant shall remove the pavers lined against the sidewalk that is not a part of the minimum required for the driveway and in its place add a three foot wide landscaped area to ensure that this portion of the yard will not be used as driveway. **(P)**
2. The paved portion of the front and side yard, not designated for driveway, shall not be used as parking or storing of vehicles at any time. **(P)**

(P) = Planning

Dear City of Milpitas Commissioners:

We the residents (Surinder Gill and Santokh Gill) of Milpitas are writing this letter to request an exception to the Neighborhood beautification program for property located at 1962 Everglades Dr., Ca. 95035. I will try and provide some background and history leading up to the current situation.

We bought the property in 1991 and have lived here since. The property was not habitable and needed tremendous improvements. There was no kitchen in the house and all doors and windows were secured with rode iron gates and enclosures. I have heard that even the police were hesitant to approach the residence when the need arose and neighbors simply lived in constant fear. We brought everything to code working with [REDACTED] and alongside the city.

In 2004, due to an unfortunate event (fire) we were forced to make a decision to remodel.

All though it would have been a simple remodel, the remodel turned into a rebuild(major remodel). In order to feel safe and comfortable the decision to rebuild(major remodel) over remodel was made in consideration of the following:

- 1) The fire was caused by faulty wiring
- 2) Injury was sustained by family member (4 year old Grandson) leaving emotional scars and feelings that a simple remodel would just mask the problems.

I ask the planning commission to consider the following:

- 1) it is a pre-existing condition.
- 2) cracked cement was in place covering the existing area in question prior to the adoption of the ordinance.
- 3) this is all being reevaluated due to the re-model or due to the remodel-ordinance being applied.

4) *The improvement has only made the neighborhood beautiful and added value to the neighborhood community.*
Prior to the start of the remodel, fire, and us becoming ^{more} residents of Milpitas, most of the area was cemented (most of it cracked and overlaid twice) . Since there was a small stucco retaining wall with iron rod fence running all around on top covering the northeast corner of the property - this area was seldom visible and this never, was an issue. During the remodel most of the dirt from excavation for piers and foundation was moved to the front area and stayed there for awhile. After the completion and final on the building we ran into financial hardship and were unable to finish the front. Many people passing by became inquisitive as to when the condition of the front area will be improved to match improvements made to the house. We endured this kind of questioning almost every weekend. As our financial condition improved a little, we made the necessary improvements to the front yard. **The dire state of the front yard was no secret and similarly we have received many compliments, good wishes, and great job comments about the tremendous improvement to the outlook and value to the neighborhood it brings in its current setting.**

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It was difficult but inside we felt we were doing the right thing by going forward with the improvement and neighbors would agree that it was greatly needed. **Not only in my opinion, but also neighbors, acquaintances, family friends living in the area, and some community members have given much praise to this improvement from the previous broken cement look.** Even today as we stand outside we receive compliments and praises from people walking their dogs or people just out for a walk on the vast improvement and how nice it looks compared to before. We believe we did the improvement for the right reasons! **We basically took the existing ugly and broken cracked cement look and transformed it into a much nicer and friendlier look.** It not only improves the value of the property, but also the look of the neighborhood and community. **I am confident that current improvements will have lasting positive affects to the surrounding area.** The current setting would appeal to any future resident considering moving to Milpitas. **It's a vast improvement from before, it's cleaner, it's friendlier, Drought conscious, and goes well with the architecture of the house and neighborhood.**

In closing, I hope you see the many positives and overall value added not only on an aesthetic level but also on a financial level to the neighborhood, community, and surrounding areas. With this improvement and it being a pre-existing condition, we are requesting that the planning commission grant us relief from the ordinance Milpitas City has in place.

Thank You.

Sincerely, if the complete yard set would be replaced to fix the problems.

Sincerely, Baljit Gill

Baljit Gill (on Behalf of Current Resident (Surinder Gill and Santokh Gill))

Baljit Gill

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