

COUNCIL MEETING OF
October 7, 2008

PUBLIC HEARING

SUPPLEMENTAL #1 TO ITEM 13A

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: Community Development - Supplemental #1 to Council Item 13 A
(PRE06-00037: Rukhsana Mir)**

Attached please find additional correspondence received after the staff report was distributed.

Respectfully submitted,

JEFFERY W. GIBSON
Community Development Director

By 

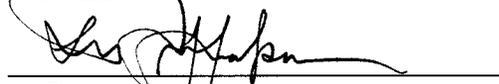
Gregg D. Lodan, AICP
Planning Manager

CONCUR:



Jeffery W. Gibson
Community Development Director

NOTED:



LeRoy J. Jackson
City Manager

Attachment: A. Correspondence

OFFICE OF THE
MAYOR & COUNCIL

10/3/08

2008 OCT -3 PM 3:45

Members of the Torrance City Council,

I write to oppose the appeal to Council for an over-ride of the decision made by the Planning Commission on 12/5/07 concerning a "tear-down" at 417 Via Anita, (PRE06-00037).

As I expressed prior to that hearing, I feel the proposed new structure is too much house for the lot, too massive in appearance, and seems to loom over the street and neighborhood. To my knowledge, no effort has been made to modify the original design, otherwise it would have gone back to the Planning Commission.

Whereas, under the present code, two-story houses are permitted, this is not the spirit of two-story house that "fits-in", similar to a remodel recently completed at 121 Via Alameda, (PRE05-00051).

If we were serious about privacy, light, and air issues, no two-story remodels would be permitted in one-story neighborhoods. But, unfortunately, that genie is already out of the bottle. If I had my "druthers", we wouldn't be in this situation in the first place.

In this specific case, although I sense no view issues, there may be privacy, light, and air concerns as well as the question of size and up-front massiveness.

Please uphold the Planning Commission's decision and deny this appeal. Thank you for your consideration.

Sincerely,
James E. Richard
405 Via La Soledad, (across the street),
1/(210) 275-0264

Herbers, Sue

From: g&s [gbird02@sprynet.com]
Sent: Sunday, October 05, 2008 7:30 PM
To: Herbers, Sue
Subject: PRE06-00037 Hearing for 10/7/08
Follow Up Flag: Follow Up
Flag Status: Red

RECEIVED
2008 OCT -6 AM 8:40
CITY OF TORRANCE
CITY CLERK'S OFFICE

Dear Ms. Herbers,

My name is Guy Ruckdaschel and I live at 149 Via La Soledad. Tonight I signed a petition from Dr. Mir supporting his project at 417 Via Anita.

I would like to have my name removed from that petition. After further review of the case, and viewing the silhouette, I cannot support this project. I believe it is far too massive, and does not comply with the Hillside Ordinance.

Once again, please have my name removed from Dr. Mir's petition, as I do NOT support this project.

Thank You,
Sincerely
Guy Ruckdaschel

Community Development

To: Torrance City Council

From: Joe and Joan Buck
 433 Via Anita
 Redondo Beach, CA 90277
 (in City of Torrance)

Date: October 6, 2008

Re: October 7, 2008 - City Council Agenda Item 13A
 Appeal of Denial of Precise Plan for 417 Via Anita, Redondo Beach, CA

RECEIVED
 2008 OCT -6 PM 1:08
 CITY OF TORRANCE
 CITY CLERK'S OFFICE
 Joe & Joan Buck

Dear Council Members,

We believe that the appeal should be denied because the proposed construction conflicts in size and appearance with the existing homes in the neighborhood of 417 Via Anita and located within the Hillside Overlay District.

Applicant's references to other houses "in the immediate neighborhood" provide no support for approval of the Application.

In support of the Application, Applicant submitted pictures of two-story houses located at: 120 Via Alameda, 121 Via Alameda, 122 Via Alameda, 128 Via Alameda, 134 Via Alameda, 142 Via Alameda, 202 Via Alameda, 207 Via Alameda, 213 Via Alameda, 217 Via Alameda, 229 Via Pasqual, 628 Via Monte D' Oro and 433 Via La Soledad. With the exception of 121 Via Alameda and 433 Via La Soledad, none of these houses are located within the Hillside Overlay District, nor are they subject to the benefits and the restrictions of the Hillside Ordinance. As a consequence, these two-story houses, located outside of the Hillside, provide no support for approval of the Application.

Applicant lists four, two-story houses as being located in the vicinity of 417 Via Anita, namely the houses at 409 Via Anita, 408 Via La Soledad, 417 Via La Soledad and 433 Via La Soledad. The house located at 417 Via La Soledad is, in fact, a one-story house, so perhaps Applicant confused that house with the house located at 413 Via La Soledad, which has a two-story addition in the rear portion of the house. In any case, the applications for permits for these two-story houses were filed in 1962, 1976 and 1977, long before the adoption by the City Council in 1984 of an express set of specific, mandatory requirements governing construction in the Hillside and prior to the adoption in 1977 of a non-specific set of "guidelines" which were only "directory and not mandatory." As a consequence, these four, two-story houses also provide no support for approval of the Application.

Applicant does not provide a legal basis for waiver of the floor area ratio limit of 50%.

Section 91.41.7 of the Hillside Ordinance limits the net interior area of construction to 50% of the area of the lot. Section 91.41.11 allows a net interior floor area that exceeds 50% only if the Council on appeal finds (in addition to other findings) that “Denial of such application would constitute an unreasonable hardship to the applicant.” Although Applicant is required to state in writing facts that support a finding that denial of Applicant's request for a net floor area in excess of 50% would constitute an unreasonable hardship, Applicant states only that “the existing home needs to be removed & denial would cause the property to be vacant & reduce its value substantially.” These “facts” stated by Applicant do not support any claim for “unreasonable hardship” because replacing the existing house with a new house whose net floor area did not exceed 50% would not cause the property to be vacant and would not reduce, but instead would increase, its value substantially. Accordingly, it is not necessary that the house exceed a floor area ratio of 50% in order to avoid “unreasonable hardship.”

Furthermore, the “facts” stated by Applicant do not even begin to address the issue of whether or not because of “special circumstances applicable to the property, including size, shape, topography, soil conditions, location or surroundings, the strict application of this Article (would) deprive(s) such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.” The term “hardship” as used in Section 91.41.11 was defined in the second sentence of Section 91.41.6(e) as stated in the preceding quotation. In January, 2000, the Council removed the requirement for a finding of “unreasonable hardship” from requirements listed in Section 91.41.6 by deleting subsection (e) which contained the “unreasonable hardship” requirement. The first sentence in subsection (e) required a finding of “unreasonable hardship.” The second sentence in subsection (e) contained the definition of “hardship”. Because the Council did not provide a new or different definition of “hardship,” the meaning of “hardship,” as used in Section 91.41.11, is unchanged. Accordingly, in order to exceed a “floor area ratio” of 50%, Applicant must show that special circumstances applicable to that property deprive it of benefits enjoyed by neighboring properties and Applicant has not done so.

Although Applicant filed an "APPEAL FORM," in the portion of the FORM titled "Reason for Appeal," Applicant offer no additional facts or argument to support a finding of "unreasonable hardship." Applicant has provided no basis to support a finding of unreasonable hardship.

The Council must consider the cumulative impact of the proposed construction.

Applicant's property has a substantial view over the rooftops of the houses located immediately below it on the hillside. If the Council approves Applicant's construction of a second story, is the Council prepared to approve the construction of two-story houses on the lots located immediately below Applicant's property and which two-story houses would significantly impair the view from the first floor of 417 Via Anita? Or is the Council prepared to deny requests for construction of two-story houses on the

lots immediately below 417 Via Anita even though the Council approved construction of a two-story house at 417 Via Anita? If the Application is approved, should Applicant construct the living quarters on the second floor with the expectation that two-story houses will be allowed on the lots below or should Applicant construct the living quarters on the first floor based on the expectation that two-story houses will not be allowed on the lots below. If Applicant guesses wrong, then Applicant may have constructed living quarters on the second floor when Applicant could have remained on the first floor and retained a view, or vice-versa, Applicant may have constructed living quarters on the first floor and then lost the view from the living quarters when two-story houses are constructed on the lots below. To avoid the problems arising from such uncertainty, the Council should adopt and consistently apply a clear set of rules that specify whether or not two-story houses may be constructed in the Hillside and, if two-story houses can be constructed in the Hillside, clearly and specifically state what limitations are placed upon the setback, bulk and other structural characteristics of any such second floors.

Applicant failed to prove that all the requirements of Article 41 have been met.

Applicant has the burden of proving that all of the requirements of the the Hillside Ordinance have been met. The appeal must be denied because Applicant has failed to prove that each and every requirement of the Hillside Ordinance has been met.

For each of the reasons stated above, Applicant's appeal should be denied.

Who is the Owner? Who is the Applicant?

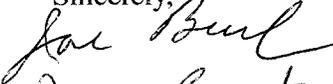
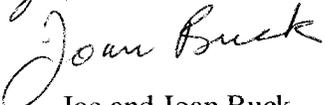
The papers filed in connection with the Application provide contradictory statements of the identity of the owner of the property at 417 Via Anita and of the identity of the Applicant. The Application names Rukhasana Mir as the Owner and the Application is signed by Rukhsana Mir as the Applicant and also is signed by Mike Bihn as the Applicant's representative. (Mike Bihn has since asked that his name be removed from the Application.) However, the "Notes of Hearing" at the Planning Commission describe Jehan Mir as the Applicant and state that he (Jehan Mir) bought the property 18 years ago. The "Summary of Arguments..." submitted by Applicant and apparently signed by Rukhasana Mir (the signature is illegible) states that Jehan Mir has resided for the last 17 years at 417 Via Anita. Then (apparently) referring to Jehan Mir, the Summary states that "Applicant Mir started this project for addition of a second story...(and) Mir made neighbors aware of his proposed project" and states that from a neighbor's property, "Mir could not see his property at 417 Via Anita" and that "Mir got on top of his roof..." all of which statements suggest the Jehan Mir is the owner of the property instead of Rukhasana Mir (emphasis added).

To add to the confusion, the letter from Jehan Mir to the City of Torrance dated February 12, 2008, states that he (Jehan Mir) represents the interest of Rukhsana Mir and describes Rukhsana as the applicant for

the building permit. On the APPEAL FORM, the name of the Appellant is given as "Rukhsana Mir" "Jehan Mir" and the address of Appellant is given as 417 Via Anita, Redondo Beach, CA. It is our understanding that Rukhsana Mir does not reside at 417 Via Anita and does not live in California.

So that the Council and the neighbors may know with whom they are dealing, we ask that the questions as to who is the owner of the subject property and who is the Applicant be resolved.

Sincerely,



Joe and Joan Buck

October 6, 2008

City Clerk
City of Torrance, City Hall
3031 Torrance Boulevard
Torrance, CA 90503

RECEIVED

2008 OCT -6 PM 2:25

CITY OF TORRANCE, CA
CITY CLERK'S OFFICE

Re: PRE06-00037-Rukhsana Mir-City Council Appeal for 417 Via Anita

I, Lisa Edmondson, am writing this letter on behalf of three families: The Edmondsons, who have lived at 429 Via Anita for 16 years, our neighbors Andy and Betty Nadalin, who have lived at 400 Via La Soledad for 43 years, and Elaine and Craig Smith, original residents and owners of 145 Via Alameda, for 54 years. I attended the December 5, 2007 Planning Commission meeting at which Mr. Mir's original request was denied, and spoke on behalf of our neighbors at that time.

We, and many other neighbors, continue to strongly object to the proposed construction project at 417 Via Anita and ask that Mr. Mir's request to build a two story house be once again denied. We would also like to note that, in the ten months since his original request was denied, Mr. Mir has made no effort to contact us to find out whether there are ways he could change the project to minimize its impact on the neighborhood.

The silhouette at Mr. Mir's house shows that the planned residence violates many aspects of the Hillside Overlay ordinance.

- 1) It has an adverse impact on the views and light of both the Nadalins and the Smiths. In the case of the Nadalins, what is currently a clear view of the sky and hills from their living room would be almost entirely blocked and replaced with the view of a two-story house. The Smiths would lose their view of the Santa Monica Mountains.
- 2) The size and bulk of the proposed new house is completely disproportionate with that of the surrounding properties. The only two story homes on the street were constructed long before the hillside overlay district was created, and are significantly smaller and lower in profile.
- 3) Unless the plans have been dramatically revised from December, the proposed second floor of the property will duplicate the already panoramic views from the first floor of Mr. Mir's residence, while restricting the views, light and privacy of others. The silhouette shows the proposed structure to be a looming, oversized boxlike structure that would not be in harmony with the neighborhood.

In summary, there appear to be no circumstances related to the property that would qualify it for an exemption under the Hillside Overlay district.

Mr. Mir has lived in the home for at least 16 years, and never made any effort to maintain the home in a manner that suggests that he intends to make it a priority to beautify the neighborhood. The peeling paint, deteriorating roof, and general disrepair of the home, coupled with his decision to keep the silhouette posts up for nearly 18 months, with complete disregard for the safety risk of the falling posts, debris on the lawns of neighbors, and noise pollution of the flapping flags, are all evidence that neighborhood harmony is not a priority for Mr. Mir.

In his statements before the Planning Commission last December, Mr. Mir defended his proposed project using arguments that seem, to us, completely unreasonable. They include the following:

Firstly, Mr. Mir believes that he should be granted an exception to the hillside overlay regulations because they represent a financial hardship to him. He accurately stated that the house is in serious disrepair and will require substantial investment to bring it up to a reasonable standard. However, it appears that Mr. Mir's intentional failure to invest in ongoing maintenance on the home has contributed to its present state of deterioration.

Secondly, when we suggested that Mr. Mir build a partially subterranean garage to keep the height of the home within the allowable single story Hillside overlay footprint, Mr. Mir stated that he could not afford to invest in the additional costs associated. Yet, my Mir's plans already included a subterranean basement. One would think the overall cost of the large two-story residence he proposes represent a significantly greater financial investment than a modified one-story structure.

Thirdly, Mr. Mir stated that restricting him from building a two-story residence would present a hardship because he had five relatives from New York, two of whom are elderly women, who wish to move to California to live with him. In his closing comments, Mr. Mir made insulting comments about the retirees who live in the neighborhood, suggesting that they are living in the 1950s, have no incentive to improve their properties, and need to let the younger generation move forward. He is implying that the needs of his elderly relatives, who are not even residents of the neighborhood, should take precedence over the needs of the long time residents of Riviera.

Fourthly, Mr. Mir said that the night of December 5th was the first time he had been made aware that the Nadalins had any issues with his planned construction. However, in the summary of arguments in support of his application for a building permit, Mr. Mir stated that he had made sure the addition would not impact the view of any of his neighbors and that he "made neighbors aware of his proposed project." Mr. And Mrs. Nadalin, who live immediately across the street from Mr. Mir, say they were never contacted by him to ask how their home's views, air, light or privacy would be affected by his proposed construction.

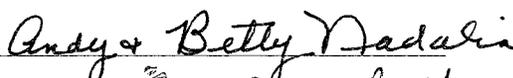
In closing, the Nadalins, Smiths and Edmondsons share the opinion that if the City Council approves a two story new home at 417 Via Anita, it will be in complete disregard to the legality of the hillside overlay zoning, will pave the way for other oversized construction projects, and will create long term adverse tensions in the neighborhood.

In addition, we would like to request that Mr. Mir be required to immediately remove the silhouette that has been an eyesore in the neighborhood for nearly 18 months, and be required to commence long-overdue preventive maintenance on his property to bring it up to a reasonable standard.

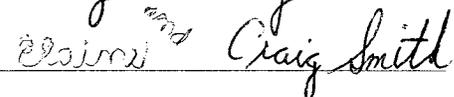
Thank you very much for taking our concerns into consideration. Please feel free to call any of us if you have additional questions.



Lisa & Kirk Edmondson, 429 Via Anita, 310 375 4443



Andy & Betty Nadalin, 400 Via La Soledad, 310 373 1856



Elaine and Craig Smith, 145 Via Alameda, 310 375 7844