



BOARD OF SUPERVISORS
AGENDA LETTER

**Agenda
Number:**

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: May 5, 2015
Placement: Set hearing on 5/5/15 for 5/19/15
Estimated Tme: 30 Minutes on 5/19/15
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director: Glenn Russell, Ph.D., Director, 568-2085
Contact Info: Alice McCurdy, Deputy Director, 568-2518
SUBJECT: **Set Hearing to Consider the Appeal (Case No. 14APL-00000-000028) of the Planning Commission's Denial of the Kalasky Appeal of the South Board of Architectural Review's Denial of the Kalasky Addition and Remodel Project (Case Nos. 14APL-00000-00019 and 14BAR-00000-00030), Second Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

On May 5, 2015, set a hearing for May 19, 2015, to consider Case No 14APL-00000-00028, appeal filed by Edward Kalasky, of the County Planning Commission's December 3, 2014 *de novo* denial of preliminary design approval for the Kalasky Addition and Remodel project, Case No. 14BAR-00000-00030. The project site is located at 155 Santa Paula Avenue in Goleta Area of the Second Supervisorial District.

On May 19, 2015, staff recommends that your Board take the following actions:

1. Deny the appeal, Case No. 14APL-00000-00028;
2. Make the required findings for denial of the preliminary design for Case No. 14BAR-00000-00030, included as Attachment 1;
3. Determine that the denial of the project is exempt from CEQA pursuant to CEQA Guidelines Section 15270. The Notice of Exemption is included as Attachment 2; and
4. Deny the preliminary design *de novo*, Case No. 14BAR-00000-00030, thereby affirming the decisions of the South County Board of Architectural Review and the County Planning Commission to deny the design for the Kalasky Addition and Remodel.

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and, if necessary, conditions of approval.

Summary:

The project on appeal before the Board of Supervisors concerns the Planning Commission's (PC) *de novo* decision on December 3, 2014 to uphold the South County Board of Architectural Review's (SBAR) denial of a design review application for the conversion of a room used as an office to a garage and for a second story addition to be located above the garage and extend over the northern portion of the existing dwelling. Hearings on appeal from the PC to the Board of Supervisors are *de novo*. Information presented to the PC is summarized below. The PC staff report is included with this Board Letter as Attachment 6.

The project was reviewed by the South County Board of Architectural Review (SBAR) at a conceptual level four times between February and April of 2014. Throughout the conceptual review process, SBAR expressed concerns regarding the massing and design of the second story addition in and of itself as well as in the context of the streetscape. In particular, SBAR expressed concerns that the addition, as designed, conflicts with the Eastern Goleta Valley Design Guidelines with respect to the massing of second story additions. The Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7 state that second story development should: *set the highest point of the second story back from the property lines and to the center of the first story and avoid locating the second story only over the garage or any one portion of the dwelling* (respectively).

The existing, single-story dwelling is "L-shaped" and aligned along an east/west axis and a north/south axis. The point at which these two axes intersect is considered the center-point of the dwelling's massing. As shown on the submitted plans (see Attachment 6, E-1, Project Plans), the project would construct a second story addition over the dwelling's newly reconverted garage and extending west toward the rear of the property. The location of the proposed second story addition would not be set back from the subject lot's property lines nor would it be located to the center of the dwelling's first story. Rather, the second story addition is proposed over the portion of the existing dwelling nearest the front property line, above the proposed garage, and solely along the northern portion of the existing dwelling. Accordingly, the design of the proposed project is unbalanced (i.e., "side-loaded") in nature and conflicts with Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7 (see Attachment 6, F, Eastern Goleta Valley Design Guidelines 4.6 and 4.7). For an example of a second story addition consistent with

the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7, please refer to Attachment 6, E-2, Project Plans-Option 2.

Section 35.82.070.F.1.i (SBAR finding I) and 35.82.070.F.3 (SBAR finding F.3) of the LUDC state that an application for design review shall be approved or conditionally approved only if SBAR can make the finding that the proposed development is consistent with the Eastern Goleta Valley Design Guidelines. Additionally, SBAR findings A and E cannot be made (see Attachment 1, Findings). Finding A cannot be made because the proposed massing is unbalanced. Finding E cannot be made because the addition of the proposed project into the streetscape would be visually disruptive due to the unbalanced nature of the design as seen by the public from the street. Therefore, the necessary findings for design review approval cannot be made.

The evidence presented herein supports the denial, on a *de novo* basis, of case number 14BAR-00000-00030.

Background:

The project was reviewed by the South County Board of Architectural Review (SBAR) at a conceptual level on February 21, 2014, March 21, 2014, April 4, 2014 and April 18, 2014. On June 6, 2014, the project returned for preliminary review and SBAR denied the design of the project. Please refer to Attachment 6, D for the SBAR minutes.

At each of the conceptual reviews of the project on February 21, 2014, March 21, 2014, and April 4, 2014, the applicant presented the project with the second story addition located solely over the garage. SBAR commented that the project's design was side-loaded; did not adhere to the Eastern Goleta Valley Design Guidelines; would not improve the neighborhood; would overwhelm the street frontage of the subject lot; and repeatedly requested that the applicant restudy the design of the project.

On April 18, 2014, the project returned for further conceptual review and preliminary approval. The applicant provided two design options. Option 1 located the second story addition solely over the garage. Option 2 (see Attachment 6, E-2, Project Plans-Option 2) located the second story addition approximately 15 feet back from the garage eave line fronting the street, thus locating the second story addition closer to the center point of the existing dwelling's massing and avoiding any side-loaded design concerns. Option 2 also located a deck above the garage. SBAR commented that Option 2 was preferable and stated that, upon further architectural improvement, Option 2 could be ready for preliminary approval. SBAR requested that the project return for further preliminary and final approval.

On June 6, 2014, the project returned for preliminary and final approval. The applicant provided a new design (see Attachment 6, E-1, Project Plans), increasing the size of the second story addition and locating the second story addition over the garage and extending west toward the rear of the property along the northern portion of the dwelling. SBAR commented that the previous iteration of the plans, which had received favorable comments from SBAR (Option 2 from the April 18, 2014 review, Attachment 6, E-2, Project Plans-Option 2) had been abandoned. SBAR commented that the project, as designed on the latest plans, still appeared side loaded, no longer stepped back from the first floor below, and did not conform with previous SBAR comments. SBAR also commented that the addition would be out of scale with the existing streetscape. SBAR further determined that since the applicant was unwilling to make further modifications to address SBAR's comments and concerns, preliminary approval for the project was denied. The SBAR's denial of the design was unanimous. In support of its denial, SBAR commented

that the project does not comply with the Eastern Goleta Valley Design Guidelines regarding second story additions, specifically the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7. For a more detailed account of SBAR's review of the project, please refer to Attachment 6, Section 5.4.

The applicant subsequently appealed the SBAR's denial of the design of the project to the County Planning Commission. On December 3, 2014, the County Planning Commission voted 4-0-1 (Commissioner Blough abstained), *de novo*, to deny the appeal, deny the preliminary design (thereby affirming the decision of SBAR to deny the design for the Kalasky Addition and Remodel), and make the required findings for denial of the design of the project based upon the project's inconsistency with the Eastern Goleta Valley Design Guidelines Second Story Guidelines 4.6 and 4.7.

Following the County Planning Commission's action, the applicant filed an appeal to the Board of Supervisors.

Appellant Issues and Staff Responses:

The appeal application and letter submitted to the Board of Supervisors (Attachment 3) raises three appeal issues: 1) that the project is in fact consistent with the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7, and thus the SBAR's denial of the project preliminary design was made in error; 2) that other projects have recently been approved by the SBAR that are inconsistent with the aforementioned Guidelines 4.6 and 4.7; and 3) that the project's consistency with numerous sections of the Eastern Goleta Valley Design Guidelines should be considered. The appellant's appeal issues have been summarized below and are followed by staff's response.

Issue #1: Consistency with the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7

The appellant contends that the project was designed to locate the second story addition over the garage and extending west toward the rear of the property (along the northern portion of the dwelling) in order to "mitigate Guidelines 4.6 & 4.7". The appellant contends this design's consistency with Second Story Guidelines 4.6 and 4.7 was not discussed by the SBAR or the County Planning Commission.

The appellant also contends that the interpretation of the Eastern Goleta Valley Design Guidelines Second Story Guidelines 4.6 and 4.7 changed during the review of the project's design.

Staff Response: The Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7 state, respectively, that second story development should: *set the highest point of the second story back from the property lines and to the center of the first story and avoid locating the second story only over the garage or any one portion of the dwelling.* Locating second story development only over the garage or any one portion of a dwelling, for the purposes of this Board Letter, is referred to as side-loaded development. This definition of side-loaded development was also utilized by the SBAR and the County Planning Commission in referring to the proposed project. The language and intent of Second Story Guidelines 4.6 and 4.7 is to avoid second story development that results in a dwelling that is unbalanced in the distribution of its massing (i.e., side-loaded) (see Attachment 6, F, Eastern Goleta Valley Design Guidelines, Second Story Guidelines 4.6 and 4.7).

The existing, single-story dwelling is "L-shaped" and aligned along an east/west axis and a north/south axis. The point at which these two axes intersect is considered the center-point of the dwelling's massing.

As shown on the submitted plans (see Attachment 6, E-1, Project Plans), the project would construct a second story addition over the dwelling's newly reconverted garage and extending west toward the rear of the property. The location of the proposed second story addition would not be set back from the subject lot's property lines nor would it be located to the center of the dwelling's first story. Rather, the second story addition is proposed over the portion of the existing dwelling nearest the front property line, above the proposed garage, and solely along the northern portion of the existing dwelling. Accordingly, the design of the proposed project is unbalanced (i.e., side-loaded) in nature and conflicts with Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7 (see Attachment 6, F, Eastern Goleta Valley Design Guidelines 4.6 and 4.7). For an example of a second story addition consistent with the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7, please refer to Attachment 6, E-2, Project Plans-Option 2.

At its hearing on June 6, 2014, the SBAR determined the project to be inconsistent with Second Story Guidelines 4.6 and 4.7 and denied the project preliminary approval (see Attachment 6, D, SBAR Minutes). The SBAR's denial was then appealed by the applicant to the County Planning Commission. The project was presented to the County Planning Commission for action on December 3, 2014 and the County Planning Commission denied the project preliminary design approval, *de novo*. Moreover, the County Planning Commission's findings for denial specifically cited the project's inconsistency with Second Story Guidelines 4.6 and 4.7 (see Attachment 6, A, Planning Commission Staff Report, Findings for Denial). Accordingly, the project's inconsistency with Second Story Guidelines 4.6 and 4.7 was identified by both the SBAR and the County Planning Commission.

The appellant does not specify whether it was during the SBAR's or County Planning Commission's review of the design for the project that the interpretation of the Eastern Goleta Valley Design Guidelines Second Story Guidelines 4.6 and 4.7 allegedly changed. Moreover, the appellant does not provide information regarding the nature of this alleged change in interpretation. During its initial review of the project on February 21, 2014, the SBAR commented that the project's design was side-loaded and did not adhere to the Eastern Goleta Valley Design Guidelines (see Attachment 6, D, SBAR Minutes). Throughout its subsequent reviews, the SBAR commented that the side-loaded nature of the project's design was a concern and repeatedly requested that the appellant restudy the project's design (see Attachment 6, D, SBAR Minutes). In justifying its denial of the project, the SBAR commented that the project's design is side-loaded and, therefore, is inconsistent with Second Story Guidelines 4.6 and 4.7 (see Attachment 6, D, SBAR Minutes). Accordingly, throughout its review, the SBAR consistently advised the appellant that the project's design was side-loaded and, thus, not in conformance with Second Story Guidelines 4.6 and 4.7. The County Planning Commission's review of the project's design was *de novo*, and therefore the County Planning Commission's interpretation of Second Story Guidelines 4.6 and 4.7 does not need to be consistent with the SBAR's interpretation of the aforementioned guidelines. Nevertheless, the County Planning Commission denied the project's preliminary design based upon the design's inconsistency with Second Story Guidelines 4.6 and 4.7 (see Attachment 6, A, Planning Commission Staff Report, Findings for Denial). Accordingly, the SBAR's and the County Planning Commission's interpretations of Second Story Guidelines 4.6 and 4.7 were consistent.

Issue #2: Other projects have recently been approved by the SBAR that are inconsistent with Second Story Guidelines 4.6 and 4.7

The appellant contends that three other projects have recently been approved by the SBAR that are inconsistent with Second Story Guidelines 4.6 and 4.7. The appellant states that one such example is located

at 5218 Calle Barquero and that the project on appeal before your Board was modeled after the project approved at 5218 Calle Barquero. The appellant does not identify the other two projects that purportedly are inconsistent with Second Story Guidelines 4.6 and 4.7 and were recently were approved by the SBAR.

Staff Response: It is true that some permits have been approved in the Goleta Community Plan area that have resulted in dwellings with unbalanced (or “side-loaded”) second story development. However, in an effort to avoid further similar residential development, in 2006 the Board of Supervisors adopted the Eastern Goleta Valley Design Guidelines (including Second Story Guidelines 4.6 and 4.7). Thus, permitted structures located in the neighborhood and similar in design to the proposed project generally predate the 2006 adoption of the Eastern Goleta Valley Design Guidelines. The Martin project, located at 5218 Calle Barquero in the Goleta area (Case No. 12LUP-00000-00342), was approved subsequent to the adoption of the Eastern Goleta Valley Design Guidelines and included a second story addition over the dwelling’s garage. However, the Martin’s second story addition was architecturally balanced by virtue of the front porch component of the project which provides a strong horizontal design element (see 5218 Calle Barquero SBAR Minutes, Attachment 5, SBAR Minutes for 5218 Calle Barquero).

As the appellant does not identify the two other projects that he believes are inconsistent with Second Story Guidelines 4.6 and 4.7 and were recently were approved by the SBAR, staff cannot respond to this claim.

Moreover, SBAR’s review is conducted on a fact specific and case by case basis. Thus the prior approval of other projects is not grounds for approval of the proposed project. The proposed project clearly conflicts with Second Story Guidelines 4.6 and 4.7 of the Eastern Goleta Valley Design Guidelines and, thus, the necessary findings for design review approval cannot be made (for more detail please refer to staff’s response to Appeal Issue #1). Ultimately, your Board has the discretion to determine whether the necessary findings for approval can be made.

Issue #3: Discrimination

The appellant contends that the SBAR’s review of the project was discriminatory. Specifically, the appellant contends that, during its last review of the project on June 6, 2014, the SBAR did not allow him to speak and did not provide an explanation as to why the project’s design was denied. Furthermore, the appellant contends that the PC decision to deny the project’s design did not take into consideration the aforementioned alleged discriminatory behavior of the SBAR.

The appellant also contends that Commissioner Brown (County Planning Commission) was prejudiced against the project because, during the County Planning Commission’s review of the project, she referred to the Thunderbird Tract (the appellant’s neighborhood) as the worst in Goleta. The appellant does not provide any further specific information as to how Commissioner Brown was prejudiced against the project.

Staff Response: The appellant was treated, like any other applicant, with civility and respect. The design, not the appellant, was the focus of the SBAR’s deliberations leading to their action to deny the project. The project was reviewed conceptually by the SBAR on three occasions (February 21, 2014, March 21, 2014 and April 4, 2014). During these three rounds of conceptual review, regardless of the fact that the appellant returned to each of these hearings with the same side-loaded design, the SBAR provided constructive feedback to the appellant consistently requesting that he redesign the proposed project to address the side-loaded nature of the design. On April 18, 2014, the project was heard by the SBAR for combined conceptual and preliminary review. The appellant provided two designs. Option 1 located the second story addition

solely over the garage and was side-loaded in nature. Option 2 (see Attachment 6, E-2, Project Plans-Option 2) located the second story addition approximately 15 feet back from the garage eave line fronting the street, thus locating the second story addition closer to the center point of the existing dwelling's massing and avoiding side-loaded design concerns. Option 2 also located a deck above the garage. SBAR commented that Option 2 was preferable and stated that, upon further architectural improvement, Option 2 could be ready for preliminary approval. SBAR requested that the project return for further preliminary and final approvals.

On June 6, 2014, the project returned for preliminary and final approvals. The applicant provided a new design (see Attachment 6, E-1, Project Plans), increasing the size of the second story addition by approximately 300 sq. ft. The new plans located the second story addition over the garage and extending west toward the rear of the property along the northern portion of the dwelling. SBAR commented that the previous iteration of the plans (option 2 from the April 18, 2014 review) had been abandoned (see Attachment 6, D, SBAR Minutes). SBAR commented further that the project, as designed on the latest plans, again appeared side loaded, no longer stepped back from the first floor below as in Option 2 presented at the previous hearing, and did not conform with previous SBAR comments. SBAR also commented that the addition would be out of scale with the existing streetscape. SBAR minutes show that since the applicant was unwilling to make further modifications to address SBAR's comments and concerns, preliminary approval for the project was denied. In support of its denial, SBAR found that the project does not comply with the Eastern Goleta Valley Design Guidelines regarding second story additions, specifically the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7.

Accordingly, the SBAR repeatedly provided constructive feedback to the appellant clearly voicing concerns regarding the side-loaded nature of the proposed second story addition. Moreover, the SBAR specifically identified the project's side-loaded nature and inconsistency with the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7 in denying of the project. In denying the project, the SBAR provided a decision allowing the appellant to pursue his administrative options. Staff spoke with the SBAR's Supervisor Planner at the time of the June 6, 2014 SBAR review (Mr. Alex Tuttle) and confirmed that the appellant was given the opportunity to speak. Finally, the PC's review of the project was *de novo* and, as such, the PC considered the project on its own merits, not the conduct of the prior decision maker.

Commissioner Brown's (County Planning Commission) vote to deny the project's preliminary design was based upon the design's clear inconsistency with the Eastern Goleta Valley Design Guidelines' Second Story Guidelines 4.6 and 4.7, as demonstrated by the County Planning Commission's Finding for Denial (Attachment 6, A). During the County Planning Commission's review of the project on December 3, 2014, Commissioner Brown stated that in terms of Goleta neighborhoods that have lost their original character, the appellant's neighborhood is "the worst of the bunch," with "many large second story additions with side-loaded designs." Commissioner Brown went on to state that such residential additions have "changed the character" of the appellant's neighborhood and that the intent of the Eastern Goleta Valley Design Guidelines was to "preserve character while allowing additions to occur." Thus, Commissioner Brown's reference to the appellant's neighborhood as the "worst" was made in reference to the intent and application of the Eastern Goleta Valley Design Guidelines and does not reflect a prejudice on the part of Commissioner Brown.

Issue #4: The project's consistency with numerous sections of the Eastern Goleta Valley Design Guidelines should be considered

The appellant contends that the project is consistent with numerous sections of the Eastern Goleta Valley Design Guidelines, specifically:

- *Orient second story windows to protect neighbor's privacy. Mutual privacy makes a home more livable. (Page 9, Eastern Goleta Valley Design Guidelines)*
- *Orient balconies and decks away from overlooking neighboring backyards. (Page 9, Eastern Goleta Valley Design Guidelines)*
- *When a change is made in an existing neighborhood, it is important to balance new development, whether in a remodeled dwelling or a new home, in an existing neighborhood. But for all neighborhoods, from the oldest to the newest, neighborhood compatibility respects the unique features and characteristics of established neighborhoods. (Page 12, Eastern Goleta Valley Design Guidelines)*
- *Locating the second story towards the center of the first story and away from property lines results in a more balanced, less boxy appearance and preserves natural sunlight, or the "solar access", to neighboring properties. (Page 25, Eastern Goleta Valley Design Guidelines)*
- *When designing a new dwelling or an addition, architectural style should be evaluated by considering what building elements define the architectural style of the dwelling (e.g., building shape, roof design, exterior materials, window size and type, etc.), what defining elements are common to other dwellings in the neighborhood, and what elements characterize the natural setting (i.e., vegetation, landforms, etc.). (Page 29, Eastern Goleta Valley Design Guidelines)*
- *Evaluate the neighborhood pattern for garages:*
 - *Is there an existing pattern for garages in the neighborhood?*
 - *How are garages in the neighborhood located in relation to the house?*
 - *What would be the effect of altering this pattern? (Page 32, Eastern Goleta Valley Design Guidelines)*
- *Roof patterns are created through the roof slope, materials, and massing of roofs. Some neighborhoods have roof patterns that are distinctive and repeatable from dwelling to dwelling. Other neighborhoods have greater variety or less distinctive roof forms, and greater deviations from neighboring roof forms could appear acceptable. The mass of a roof and how it is articulated into different shapes contributes to the character of a building. Most dwellings with sloped roofs, and many with flat roofs, have a primary roof form and smaller secondary and minor forms that contribute to the overall style of the house. Evaluate the massing of the roof form and determine how it will benefit the appearance of the house and be compatible with the neighborhood. (Page 33, Eastern Goleta Valley Design Guidelines)*

Staff Response: The project's consistency with other elements of the Eastern Goleta Valley Design Guidelines does not change the project's inconsistency with Second Story Guidelines 4.6 and 4.7. As the project conflicts with the Eastern Goleta Valley Design Guidelines Second Story Guidelines 4.6 and 4.7, the

necessary findings for design review approval cannot be made (for more detail please refer to staff's response to Appeal Issue #1). The SBAR's review of the project included an assessment of the proposed design's consistency with the Eastern Goleta Valley Design Guidelines.

Fiscal and Facilities Impacts:

Budgeted: Yes

The fee for appealing a project to the Board of Supervisors is \$648.26. The estimated staff cost to process the appeal is approximately \$4,719.00 (25 planner hours). This work is funded in the Planning and Development Permitting Budget Program on page D-212 of the adopted 2014-2016 fiscal year budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on May 19, 2015. The notice shall appear in the Santa Barbara News-Press. The Clerk of the Board shall fulfill noticing requirements. A minute order of the hearing and copy of the notice and proof of publication shall be returned to Planning and Development, attention David Villalobos.

Attachments:

1. Findings for Denial
2. CEQA Exemption
3. Appeal Application Letter to the Board of Supervisors
4. Planning Commission Action Letter, Appeal of the SBAR's denial of the design of the Kalasky Addition and Remodel (Case Nos. 14APL-00000-00019 & 14BAR-00000-00030)
5. SBAR Minutes for 5218 Calle Barquero (Case No. 12BAR-00000-00173)
6. Planning Commission Staff Report, dated November 13, 2014 including:
 - A. Findings for Denial
 - B. Notice of Exemption
 - C. Appeal Application and Letter to the Planning Commission, Case Nos. 14APL-00000-00019 & 14BAR-00000-00030
 - D. South Board of Architectural Review Minutes, Case No. 14BAR-00000-00030
 - E-1. Project Plans
 - E-2. Project Plans - Option 2, submitted for SBAR review on April 18, 2014
 - F. Eastern Goleta Valley Design Guidelines, Second Story Guidelines 4.6 and 4.7

Authored by:

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