

NOTICE OF PERMIT APPEAL

TO BE COMPLETED BY PLANNING STAFF

FILE NUMBER T19-033 & H19-039	RECEIPT # _____
PROJECT LOCATION 6805 ALMADEN ROAD, WEST SIDE OF ALMADEN RD 150' NORTHERLY OF CORVALLIS DR.	AMOUNT _____
	DATE _____
	BY _____

TO BE COMPLETED BY PERSON FILING APPEAL

PLEASE REFER TO PERMIT APPEAL INSTRUCTIONS BEFORE COMPLETING THIS PAGE. THIS FORM MUST BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

THE UNDERSIGNED RESPECTFULLY REQUESTS AN APPEAL FOR THE PROPERTY WHICH IS LOCATED AT:
6805 ALMADEN ROAD

REASON(S) FOR APPEAL (For additional comments, please attach a separate sheet.):

NON-CONFORMANCE WITH "RESIDENTIAL NEIGHBORHOOD" SECTION OF 2040 GENERAL PLAN

PERSON FILING APPEAL

NAME LANCE & KAREN DANBE	DAYTIME TELEPHONE (408) 592-0468
ADDRESS 1107 CORVALLIS DR, SAN JOSE CITY CA STATE 95120 ZIP CODE	
SIGNATURE <i>Lance Danbe Karen Danbe</i>	DATE 9/22/2020
RELATIONSHIP TO SUBJECT SITE: (e.g., adjacent property owner, property owner within one thousand (1,000) feet) ADJACENT PROPERTY OWNER	

CONTACT PERSON (IF DIFFERENT FROM PERSON FILING APPEAL)

NAME TERENCE J. SZEWCZYK, TS/CIVIL ENGINEERING, INC.		
ADDRESS 1776 TECHNOLOGY DR SAN JOSE CITY CA STATE 95110 ZIP CODE		
DAYTIME TELEPHONE (408) 316-2696	FAX NUMBER (408) 837-7550	E-MAIL ADDRESS terry@tscivil.com

PROPERTY OWNER

NAME LANCE & KAREN DANBE (SAME AS ABOVE)	DATE
ADDRESS	CITY STATE ZIP CODE

Please submit this application IN PERSON to the Development Services Center, 1ST FLOOR, City Hall. Appointments are not required but may be accommodated by calling (408) 535-3555 or by visiting the Planning Division's website: <http://www.sanjoseca.gov/index.aspx?nid=3839>. For Assistance, call (408) 535-5680.



Job No. 20-206

September 22, 2020

Rosalynn Hughey, Director
Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113

Subject: Resident Appeal of Director's Hearing Approval
For T19-033 and H19-039
6805 Almaden Road, San Jose

Dear Ms. Hughey:

Please accept this appeal to the approval of the subject 6-Lot Subdivision Application and Site Development Permit which was "heard" at the September 16, 2020 meeting. The basis for the appeal is as follows:

The layout of the proposed 6-lot subdivision results in the creation of a "key lot" – Lot 6, which is inconsistent with the "pattern" of the neighborhood. By virtue of this lot's 90° oriented rotation, the rear setback of Lot 6 does not abut the appellant's rear setback of 20'. The 20' to 20' rear setback pattern exists throughout the immediate neighborhood block bounded by Petroni Way and Corvallis Drive from Glenview Drive to Almaden Road. There are 19 existing homes with this setback pattern, plus 3 of the applicant's new lots. There is only 1 exception which occurs opposite the appellant's lot at 1107 Corvallis Way. Furthermore, this is not a minor inconsistency as the "key lot" allows a minimal 5' side setback for the newly proposed two-story residence.

The Envision San Jose – 2040 General Plan is explicit in the intent and description of what constitutes conformance:

RESIDENTIAL NEIGHBORHOOD

The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as

defined by density lot size and shape, massing and neighborhood form and pattern. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

The approval of this subdivision design and in particular Lot 6 does not “improve and/or enhance existing neighborhood conditions”. To the contrary, it places a new two-story residence of 27’ height literally towering over the appellant’s existing swimming pool with a horizontal separation of merely 5’ from property line. The result is a complete loss of privacy for the swimming pool and deck area.

No less than four code compliant design alternatives have been submitted by the appellant to the City and applicant with little or no feedback from the applicant. This unfortunate lack of consideration has resulted in the need to appeal these applications.

The appellant respectfully requests that the project be revised pursuant to the email and exhibits that were submitted by TS/Civil Engineering to the applicant and City dated 09-15-20 (attached here). The result is the proper pattern of a 20' setback for the new residence on Lot 6 opposite 1107 Corvallis Drive, the appellant's property, "to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character form and pattern" as described in the Residential Neighborhood section of the Envision San Jose - 2040 General Plan.

Sincerely,

TS/CIVIL ENGINEERING, INC.

A handwritten signature in black ink, appearing to read "Terence J. Szewczyk". The signature is fluid and cursive, with the first name "Terence" being more prominent.

TS/CIVIL ENGINEERING, INC.
Terence J. Szewczyk, P.E. C35527
Principal Engineer



Terry Szewczyk <terryszewczyk@gmail.com>

Re: 6805 Almaden Rd

1 message

Terence J. Szewczyk <terry@tscivil.com>

Tue

To: John Moniz <jmoniz@rja-gps.com>

Bcc: Lance Danbe <ldanbe@pacbell.net>

John, Here is Alt D with the lot compliance for Lot 5. The second copy shows the Plan A on this lot. Kindly discuss this with Mr. Zhou. It only impacts lots 5 & 6 and is a fairly simple adjustment.

I'm going to have to distribute this now to City given the short timeframe. Thanks in advance.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

(408) 316-2696 cell (BEST NUMBER)

(408) 452-9300 ext 220 office (RINGS THRU TO CELL)

On Mon, Sep 14, 2020 at 6:23 PM Terence J. Szewczyk <terry@tscivil.com> wrote:

John, Your reply to our alternate plan was nonspecific and misleading at best. While I didn't expect you to redo it, what's the point of sending the CADD file if you give no numeric feedback?

But, OK. I will check the dimensions on Alt D. Thank you. Terry

On Mon, Sep 14, 2020, 5:17 PM John Moniz <jmoniz@rja-gps.com> wrote:

Terry,

This solution has potential. If you can prepare a dimensioned site plan, proving that lot five is compliant with the depth to width requirements, I will run it by our client.

I would also appreciate an end to the suggestive language that we have not been cooperative and/or willing to consider your proposals. In fact, we have made every effort to make your solutions viable.

John Moniz

Senior Planner

(408) 848-0300

From: Terence J. Szewczyk [mailto:terry@tscivil.com]

Sent: Monday, September 14, 2020 5:00 PM

To: Tu, John <john.tu@sanjoseca.gov>; richardzhou@gmail.com

Cc: John Moniz <jmoniz@rja-gps.com>; armintaj@rja-gps.com

Subject: Fwd: 6805 Almaden Rd

Mr. Tu, This is our latest proposal that solves the 20' setback issue at Danbe.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

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----- Forwarded message -----

From: **Terence J. Szewczyk** <terry@tscivil.com>

Date: Mon, Sep 14, 2020 at 9:49 AM

Subject: Fwd: 6805 Almaden Rd

To: Connolly, Shane Patrick <shane.connolly@sanjoseca.gov>, Fedor, Denelle M <DenelleM.Fedor@sanjoseca.gov>

Cc: Lance Danbe <ldanbe@pacbell.net>

Good Morning District 10 Staff, I will keep pressing Planning to get this resolved before Wednesday's Director's Hearing. I think that this is a simple but overlooked solution.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

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(408) 452-9300 ext 220 office (RINGS THRU TO CELL)

----- Forwarded message -----

From: **Terence J. Szewczyk** <terry@tscivil.com>

Date: Sat, Sep 12, 2020 at 12:23 PM

Subject: Re: 6805 Almaden Rd

To: Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>, Manford, Robert <robert.manford@sanjoseca.gov>, Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Cc: Lance Danbe <ldanbe@pacbell.net>

Hello Planners, My apologies for not seeing this solution earlier. Plan A is 13' narrower than Plan B and if the applicant would use a Plan A on Lot 5, then the residence on Lot 6 can scoot northerly to provide the 20' setback at Danbe. Call this Subdiv

I send this to you in your role as arbiter and facilitator of zoning matters. Please forward it to the applicant and his planner as we have not had open and productive exchanges with them. Mr. Danbe notes that he has been pushing for the 20' setback with Planner Emily Lipoma. More recently, we'd sent the Alternate Subdivision designs A&B in July 2020 with no significant change from the applicant. Then we sent what is Alternate C, including the CADD files only to receive a cryptic and non-spec Mr. Moniz about compliance that was neither interactive nor specific. However, he did propose to increase the setback to 13'. So, finally, we propose the above described Alternative D.

If you'd like to add an amended condition of approval to the staff report, I'd suggest the following:

COA #XX. The applicant will revise the site plan to utilize a Plan A on Lot 5 instead of a Plan B to narrow Lot 5 by 13' and make other adjustments in shifting the Plan C northerly on Lot 6 to result in a 20' setback at the Danbe parcel, 1107 Corvallis C

This is a minimal impact on the design and the financial viability of the project. If you hear strong disagreement from the applicant, I'd question the validity.

Thank you for your patience and assistance. I hope that this resolves the matter once and for all.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

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On Fri, Sep 11, 2020 at 4:28 PM Terence J. Szewczyk <terry@tscivil.com> wrote:

Dear San Jose Planners:

Just an update: Yesterday, I'd thought that we were getting to a compromise based upon the applicant's offer to look at our alternate site plan with the 20' setback. Apparently that failed and Mr. Moniz came back with a 13' setback. I have inserted
Unfortunately, there are no particulars about the stated deficiencies with our plan and yet I am open to redlines or criticism to make adjustments.

I have also attached the rear yard "pattern" for the block of Petrohi and Corvallis from Glenview to Almaden Rd. There are consistently 20' rear setbacks abutting 20' rear setbacks. That's what the Danbe's should expect based upon the 2040 Gen yard setback opposite their 20' rear yard setback.

Rosalyn, Robert or Stefanie, would one of you please call me at (40*) 316-2696?

[illegible]

Terence J. Szewczyk <terry@tscivil.com>

3:07 PM (1 hour ago)

to John, Terence

Image removed by sender.

John, I don't think that Mr. Danbe will come off of 20'. If you have comments on the alternate design, please send me a redline and I'll look it over. The purpose of the exchange of the CADD file was not so that we unilaterally disr intended to be a collaborative process in good faith.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

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On Fri, Sep 11, 2020 at 2:20 PM John Moniz <jmoniz@rja-gps.com> wrote:

Terry,

I reviewed what you sent:

1. Some of the layout's setbacks need a second look
2. The footprints are close, but not identical

However, the proposed lotting pattern is not in character with the surrounding neighborhood, which is the biggest challenge with your alternative. I suspect the City will agree.

I looked at our layout again and think we can slide the three Almaden-facing homes closer to Petroni, which will gain +/-3' in side yard resulting in a 12' side setback for lot 6. If you're client isn't willing to move off 20', then we'll play out.

John Moniz

Senior Planner

(408) 848-0300

From: Terence J. Szewczyk [mailto:terry@tscivil.com]
Sent: Thursday, September 10, 2020 11:02 PM
To: John Moniz <jmoniz@rja-gps.com>
Cc: Lance Danbe <ldanbe@pacbell.net>; David Hansen <david@tscivil.com>
Subject: Re: Petroni/Almaden

John, We'll send it over in the AM- Eastern Time. Dave, Please send it first thing when you start work Friday.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

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On Thu, Sep 10, 2020 at 4:50 PM John Moniz <jmoniz@rja-gps.com> wrote:

Terry,

I see you've refined the site plan. If you forward me the CAD, I'll confirm its zoning compliance independent of what the City offers.

John Moniz

Senior Planner

RUGGERI-JENSEN-AZAR

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

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San Jose, CA 95110

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On Thu, Sep 10, 2020 at 2:48 PM Terence J. Szewczyk <terry@tscivil.com> wrote:

Rosalyn and Robert,

I have added the developer/architect- Richard Zhou to this email. I did talk to him this morning about an alternative floorplan for Lot 6,

However, I was reminded by my client that we went to the trouble of preparing an alternate subdivision design to which the developer and Planning Staff have never responded.

We have hardlined that plan and attach it here. Please note that:

- 1) It is a conforming subdivision design that meets the lot area and width requirements of the code AND ALSO IS COMPLIANT WITH THE 2040 GP IN THAT IT PROVIDES A COMPATIBLE REAR SETBACK FOR THE DANBE LOT OF 20 FEET IN CONSISTENCY OF FORM, MASS AND RELATIONSHIP TO THE EXISTING NEIGHBORHOOD.
- 2) The house footprints utilized are that of the developer's current plan.
- 3) In general, the open yard areas within the subdivision are shifted for lots 4,5 & 6 to achieve a 20' rear setback opposite the Danbe pool.

The question to Planning Staff is why have we not received a response to this conforming plan that otherwise alleviates the stated setback deficiency? Is this demonstration of no value since the application is so far into the process? Is it, therefore, consider? I would suggest that 6 lots with a slight rearrangement of 3 of those lots is a far better outcome than what may await at a future Planning Commission appeal hearing.

Mr. Connolly, I respectfully ask that this item be pulled from the Director's Hearing Agenda once again and deferred until such time that a mutually acceptable plan can be submitted.

Best regards, Terry

Terence J. Szewczyk. P.E.

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On Wed, Sep 9, 2020 at 9:42 PM Terence J. Szewczyk <terry@tscivil.com> wrote:

Ms. Hughey, It does NOT comply to the neighborhood massing and setback pattern due to the key lot- Lot 6. That house is entirely too close to the Danbe pool and erratically changes to a 5' setback where 4 other existing neighbors will enjoy.

We provided an alternative site plan that does provide a 20' setback at Danbe but rec'd no feedback from staff or applicant. That is again attached here. See the 2nd sheet.

If the applicant refuses to consider this, we'll appeal and pursue a reduction to 5 lots at Planning Commission.

Thanks for your email. Terry Szewczyk

On Wed, Sep 9, 2020, 9:15 PM Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov> wrote:

Hello Mr. Szewczyk – yes, we have communicated with District 10 staff previously and actually met with Councilmember Khamis and his staff today. As we've shared, the project complies the General Plan policies and Zoning Code.

Best regards,

Rosalynn

From: Terence J. Szewczyk <terry@tscivil.com>

Sent: Wednesday, September 9, 2020 4:57 PM

To: Manford, Robert <Robert.Manford@sanjoseca.gov>; Fedor, Denelle M <DenelleM.Fedor@sanjoseca.gov>; Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>; Connolly, Shane Patrick <shane.connolly@sanjoseca.gov>

Cc: Lance Danbe <ldanbe@pacbell.net>

Subject: Fwd: 6805 Almaden Rd

[External Email]

Rosalyn, This seems like the McHarris problem all over again. While this draft staff report lists the lofty goals of the Residential Neighborhood Land Use designation, it fails to enumerate how it complies in the italics section. We say it does rear setback at our client's pool. We have had no interaction with anyone from Planning for the past few weeks, so I have no idea if this concern was expressed to you by District 10 staff.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

(408) 316-2696 cell (BEST NUMBER)

(408) 452-9300 ext 220 office (RINGS THRU TO CELL)

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From: Terence J. Szewczyk <terry@tscivil.com>

Date: Fri, Sep 4, 2020 at 2:21 PM

Subject: Fwd: 6805 Almaden Rd

To: <denelle.fedor@sanjoseca.gov>, Manford, Robert <robert.manford@sanjoseca.gov>, Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Cc: Lance Danbe <ldanbe@pacbell.net>, Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>

Denelle and Rob, I don't see any revisions to increase the setback opposite the Danbe residence/pool to 20' as requested. This would be consistent with the 4 neighbors to his west. This is very disappointing to see such a stubborn approach. The Danbe neighbors will enjoy a 20' private setback from their new neighbors----but Danbe only 6' and 10'.

I hope that staff has some extensive explanation of how this is consistent with the General Plan infill policies. My opinion is that it is NOT AT ALL CONSISTENT.

This will be appealed to the Planning Commission if it goes ahead as designed.

Best regards, Terry

Terence J. Szewczyk. P.E.

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San Jose, CA 95110

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From: Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Date: Fri, Sep 4, 2020 at 10:16 AM

Subject: RE: 6805 Almaden Rd

To: Terence J. Szewczyk <terry@tscivil.com>

Cc: Lance Danbe <ldanbe@pacbell.net>

Hi Terence,

The agenda gets posted on the Wednesday prior to the Director's Hearing, so check back on September 9th, approximately midday.

I was also informed by Queen that you requested revised plans. See attached for the latest plans submitted for H19-039.

Thanks and have a good weekend,

Stefanie Farmer, AICP

Planner – Development Review

CITY OF SAN JOSE | Planning, Building & Code Enforcement

200 East Santa Clara Street, 3rd Floor | San Jose, CA 95113

(408) 535-3861 | www.sanjoseca.gov/planning

From: Terence J. Szewczyk <terry@tscivil.com>

Sent: Thursday, September 3, 2020 4:43 PM

To: Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Cc: Terence J. Szewczyk <terry@tscivil.com>; Lance Danbe <ldanbe@pacbell.net>

Subject: Re: 6805 Almaden Rd

[External Email]

Stefanie, Lance rec'd a notice of Director's Hearing for Sept 16-I can't find the meeting agenda online? Thanks, Terry

On Mon, Jul 27, 2020, 11:26 AM Farmer, Stefanie <stefanie.farmer@sanjoseca.gov> wrote:

Hi Terence,

I think this is a good approach!

Thanks,

Stefanie Farmer, AICP

Planner – Development Review

CITY OF SAN JOSE | Planning, Building & Code Enforcement

200 East Santa Clara Street, 3rd Floor | San Jose, CA 95113

(408) 535-3861 | www.sanjoseca.gov/planning

From: Terence J. Szewczyk <terry@tscivil.com>

Sent: Monday, July 27, 2020 11:25 AM

To: Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Cc: Terence J. Szewczyk <terry@tscivil.com>; Lance Danbe <ldanbe@pacbell.net>

Subject: Re: 6805 Almaden Rd

[External Email]

Stefanie, Thanks for the confirmation.

Just to review: In our opinion, the Danbe residence deserves a 20' rear setback opposite their fence as is provided for the 4 lots to his west. This will provide for Residential Neighborhood consistency pursuant to the 2040 Envision General Plan. Rosalyn Hughey expecting to hear something new about the matter, but rec'd the exact same excuse about the 5' side setback on the key lot from Dr. Robert Manford. The problem is with the subdivision lot design and it is my expectation that we will see some meaningful revision within the next month. I also contacted Denelle Fedor of the District 10 Council Office to obtain support for the Danbe's as constituents and long term neighbors to this proposed project. I am hopeful that we will see some meaningful revision applicant in the near future. Thanks for listening.

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

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(408) 452-9300 ext 220 office (RINGS THRU TO CELL)

On Mon, Jul 27, 2020, 10:43 AM Farmer, Stefanie <stefanie.farmer@sanjoseca.gov> wrote:

Hi Terence,

Yes, the project is being deferred and no action will be taken on 7/29. Another set of notices will be sent out at a later date which is to be determined

Thanks,

Stefanie Farmer, AICP

Planner – Development Review

CITY OF SAN JOSE | Planning, Building & Code Enforcement

200 East Santa Clara Street, 3rd Floor | San Jose, CA 95113

(408) 535-3861 | www.sanjoseca.gov/planning

From: Terence J. Szewczyk <terry@tscivil.com>

Sent: Thursday, July 23, 2020 1:15 PM

To: Farmer, Stefanie <stefanie.farmer@sanjoseca.gov>

Cc: Lance Danbe <ldanbe@pacbell.net>

Subject: 6805 Almaden Rd

Stephanie, Is this off-calendar for now with no hearing of the matter on July 29, 2020?

Best regards, Terry

Terence J. Szewczyk. P.E.

TS/Civil Engineering, Inc

1776 Technology Drive

San Jose, CA 95110

[\(408\) 316-2696](#) cell (BEST NUMBER)

[\(408\) 452-9300 ext 220](#) office (RINGS THRU TO CELL)

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200915 6805 Almaden SUB ALT D, lots 5, 6 w 20'setback at Danbe.pdf

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