

STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR *BB*
JANET REESE, PLANNER II *JR*

SUBJECT: APPEAL OF THE PLANNING COMMISSION DENIAL OF A VARIANCE -
DEVELOPMENT PERMIT 14-18 (APPELLANTS: MYLES & CECILIA NOYES)

BACKGROUND

On December 9, 2014, the Planning Commission considered a request for a Variance to allow an illegally constructed covered porch to remain within the required front setback of 807 Saratoga Avenue. The Planning Commission conducted a public hearing and deliberated on whether the four required findings could be made to approve the Variance. The Commission determined that three of the four required findings could not be made and voted 4-0-1 (Vice Chair Blum absent) to deny the Variance (reference Attachments 3 and 4). The Planning Commission staff report provides a detailed discussion of the applicant's request and the required findings in order to approve a Variance (reference Attachment 2).

The appellants (also the applicants) have appealed the Planning Commission's decision to the Council (reference Attachment 5). The appeal indicates that the porch was constructed in the early 1980's and there is no record of the minimum front setback at the time, the porch enhances the look of the residence and neighborhood, and the porch extends two feet further into the front setback than the original residence. Staff has researched the minimum front setback and determined that in 1961 the Council adopted for the R1 zone a minimum front setback of 20 feet, but in no case shall any structure be less than 45 feet from the centerline of the street. The minimum front setback is currently 20 feet and to staff's knowledge has remained the same since 1961.

In regards to the porch enhancing the aesthetics of the residence and neighborhood, staff discussed this in the Planning Commission staff report and indicated that the attractiveness of the structure cannot be considered in making the findings in the affirmative because it is unrelated to the physical circumstance of the property.

It is requested that the Council conduct the public hearing and consider the appellant's appeal of the Planning Commission action denying the Variance.

APPROVED FOR FORWARDING



**ROBERT PERRAULT
CITY MANAGER**

**Please Review for the Possibility of a
Potential Conflict of Interest:**

- | | |
|--|----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright |
| <input type="checkbox"/> Shoals | <input type="checkbox"/> Nicolls |
| <input type="checkbox"/> Lee | <input type="checkbox"/> Shah |

Meeting Date: February 17, 2015

Agenda Item No. 3

ALTERNATIVES

The Council has the following alternatives to consider:

1. Adopt the Resolution upholding the Planning Commission's action denying the Variance;
or
2. Direct staff to prepare a Resolution overturning the Planning Commission's action and approving the Variance, and provide staff with the basis for the findings; or
3. Provide alternate direction to staff.

RECOMMENDATION

It is recommended that the City Council adopt the Resolution upholding the Planning Commission's action denying the Variance.

FISCAL IMPACT

None identified.

PUBLIC NOTIFICATION

On February 6, 2015, the public hearing notice was published in The Tribune, mailed to property owners within 300 feet, and posted according to City code. The agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Draft Resolution Upholding the Planning Commission's action
2. Planning Commission Staff Report dated December 9, 2014
3. Draft Planning Commission Meeting Minutes of December 9, 2014
Photographs submitted by applicant during public hearing
4. Planning Commission Resolution Denying the Variance
5. Appellant's Appeal Application