

All Receive - Agenda Item # 9
For the Information of the:
CITY COUNCIL
Date 6/25/24 CA CC
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Tammy Cloud-McMinn

From: j phelps <jmwp1984@yahoo.com>
Sent: Monday, June 24, 2024 4:49 PM
To: Planning; City Clerk
Subject: CDP 2023-0016V 2023-0002 (DEV 2020-0134) Begonia Court Retaining Wall
Attachments: CDP 2023-0016V 2023-0002 (DEV 2020-0134) Begonia Court Retaining Wall (06242024).pdf

Good afternoon, please find attached a comment letter for consideration by Mayor Keith Blackburn and Council Members in regards to a permit application for the subject property. We want to register our opposition of an approval of this application that would allow a "grandfathering" of a non-permitted, illegally built structure. Both the Carlsbad Planning Commission and staff have recommended a denial of this application. We plan on attending the council meeting tomorrow and voicing our concerns.

Thank you for your time and consideration,
Jack & Renee Phelps

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June 24, 2024
City Council
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

RE: Case No: CDP 2023-0016/V 2023-0002 (DEV 2020-0134) Begonia Court Retaining Wall

Mayor Keith Blackburn and Council Members,

We are writing to express our strong opposition to the proposed application to allow a retro-fitting of an unpermitted or illegally built “retaining wall” at 939 Begonia Court, Carlsbad, CA 92011. We have expressed consistent opposition to the Planning Commission in writing and/or in-person when this application was heard in 2020 and 2024. Attached is our last detailed objection letter to the Planning Commission dated February 18, 2024.

We kindly inform Council Members that the structure is not a retaining wall. *Instead, it is an observation deck as a retaining wall does not have seating areas or stairs.* Hence, a retroactive approval of this structure as a retaining wall would not be appropriate given its past and intended future use as an observation deck. As such, a proper approval of an observation deck of this nature would require an engineering assessment of its safety for use by people, with considerations given to building code requirements such as stair riser height and other safety measures (stair handrails, deck rails, slip resistant materials, lighting, etc.).

We reiterate our objections of a retroactive approval of this application by the City Council. This observation deck has caused economic harm to my property value through a diminishment of privacy (visual and sound). After a lengthy and careful review, both the Planning Commission and staff have recommended that the structure not receive retroactive approval by the City Council. We pray that the City Council follows the recommendations provided by the Planning Commission and staff to deny the application, which will reverse some of the damage done by this irresponsible party.

Jack & Renee Phelps
956 Whimbrel Court
Carlsbad, CA 92011

February 18, 2024
Planning Commission of the City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

RE: Case No: CDP 2023-0016/V 2023-0002 (DEV 2020-0134) Begonia Court Retaining Wall

Dear Chairman Peter Merz and Planning Commissioners,

We are writing to express our strong opposition to the proposal to grandfather the structural retro fitting of an illegally built “retaining wall” at 939 Begonia Court, Carlsbad, CA 92011.

- It is an obfuscation to call this structure a “retaining wall” as it is an observation deck, which was erected by the property owner to increase the rental rate the property could generate. We note that *it is very atypical for a “retaining wall” to have built-in steps and seating*. During its erection, we overheard the property owner tell the laborers that no one could make him remove the structure.

There are three compelling reasons for this planning commission to reject this proposal.

1. *This observation deck has adversely affected ours and surrounding neighbor’s economic and physical well-being*. The economic damage if this structure is allowed to remain would be actual and permanent, not hypothetical. The actual damage is a loss of privacy in two ways. First, the observation deck allows for direct visibility into the backside of our house and backyard. Second, because of the acoustical effects of the “mini-canyon”, even a causal conversation of people on the observation deck cascades down onto our property. The visual and noise intrusion of this observation deck has diminished our ability to fully use our backyard outdoor experience as well being able to open our windows to enjoy the natural air conditioning our coast is famous for. Our physical well-being has been and will continue to be impaired by the noise blasting down onto our property. This property has and will be used for shorter-term vacation rentals that results in large groups partying well past midnight. This has interrupted our ability to get peaceful sleep on too many nights. I would welcome for any commissioner to conduct a site inspection on our property to acquire a fuller understanding of our privacy loss.
2. *Removing the observation deck will restore the neighborhood to its prior state and reduce tensions that have led to law enforcement responses*. This is not an owner-occupied property, instead it is being used for commercial rental purposes. The excessive noise from these short-term commercial rentals required neighbors to seek the help of the Carlsbad Police Department (CPD). CPD would like for you to make their job easier through the removal of this observation deck.
3. *Send a strong message to irresponsible owners that think the rules or neighborhood decorum do not apply to them through the removal of this observation deck*.

You denied this retroactive permit before, so we implore you to do the right thing again by requiring removal of this observation deck. We pray that you will find the wisdom to return our property back to the “American Dream” status that it was before this monstrosity nightmare was erected.

Jack & Renee Phelps
956 Whimbrel Court
Carlsbad, CA 92011

RE: Case No: CDP 2023-0016/V 2023-0002 (DEV 2020-0134) Begonia Court Retaining Wall

View of Observation Deck from 956 Whimbrel Court Backyard



View of Observation Deck & Seating Area from 956 Whimbrel Court Bedroom

