

From: [Jeff Levinsky](#)
To: [Council, City](#)
Subject: 739 Sutter Avenue Appeal – Item #11
Date: Saturday, April 20, 2024 9:35:46 AM

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Dear City Council Members:

Please pull 739 Sutter off this Monday's consent calendar, as the project plans do not provide the neighbor-protecting plantings required by 18.24.050(b)(2)(A) of our Municipal Code. That law says, with my highlighting:

(2) Privacy and Transitions to Residential Uses

When a building abuts a residential use at an interior side and/or rear property line, the building shall break down the facing façade and maintain privacy by meeting all of the following applicable standards:

(A) Landscape Screening: A landscape screen that includes a row of trees with a minimum one tree per 25 linear feet and **continuous shrubbery planting**. This screening plant material shall be a **minimum 72 inches (six feet) in height when planted**.

Required trees shall be minimum 24" box size.

The latest plans available show that the project is:

- (1) Not providing the required continuous shrubbery planting, but instead interspersing benches between the shrubs,
- (2) Installing three-foot tall *Carpenteria Californica* as the shrubbery, not the six-foot tall plant material required, and
- (3) Since *Carpenteria Californica* doesn't reliably grow to six feet in our climate, clearly not complying with the intent that the shrubbery provide useful screening.

The staff response to the appeal neither quotes the law above nor addresses the benches and inadequate installed height of the proposed shrubbery. The extra trees do not meet the continuous shrubbery requirement.

Please note that this law is part of our new Objective Standards, which were enacted by the Council to provide enforceable rules after the state blocked the City from using our older subjective Contextual Design Criteria. It would be a horrible precedent to ignore this clear violation, as that would demonstrate the City is treating these new laws as subjective ones it can interpret and waive rather than as fixed requirements projects absolutely must meet. Why imperil the huge price we paid in Council, staff, ARB, PTC, and consultant time to establish the new objective standards by then demonstrating, in perhaps the very first appeal based on them, that the City doesn't intend to enforce them? The cost to 739 Sutter to

comply is minor by comparison.

Please also note that the staff report contains a serious error regarding the trash handling for the project. Page six of the report states:

The plan set inadvertently refers to these waste receptacles as bins, which are larger metal receptacles, versus carts, which are the smaller plastic receptacles more typically used by low density residential uses. Bins require at least two-foot spacing between each for service. **Carts require 6 inches between.**

The complaint by the appellants is that the project's 36 trash carts, when placed out on the street and properly spaced, will require more space than the entire non-driveway frontage of the property. The report is incorrect in saying that carts require 6 inches between them. GreenWaste's rules at https://www.greenwaste.com/palo-alto/wp-content/uploads/2023_Residential-Guide.pdf clearly state that you must, "Place front of cart facing the street with **a minimum of 2 feet between carts.**" Staff provides no documentation of why GreenWaste would make an exception for this project. I submitted a public records request for 739 Sutter that should have covered any emails or documents related to this and received none. As others have pointed out, the trash carts will displace cars and negatively impact neighboring properties, which could all be avoided by a more rational trash plan, such as sharing carts or not putting all carts out each week.

Thank you,

Jeff Levinsky