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DATE: December 7, 2023

## STAFF REPORT

AGENDA ITEM NO. 5.1

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TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: JAMES ATKINS, SENIOR PLANNER

CASE NO.: UP2023-0075

OWNER: BENJAMIN CHIU

PROJECT LOCATION: 612 BRIDGEPORT LANE (NEIGHBORHOOD 6)

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### **REQUESTED ACTION/PURPOSE**

Use Permit request for a 459 square foot (SF) second story addition to an existing 2,226 SF two-story single-family home located at 612 Bridgeport Lane in Neighborhood 6.

### **RECOMMENDATION**

Staff recommends that the Planning Commission adopt a Resolution (Attachment 1) approving the Use Permit request (UP2023-0075) subject to Conditions of Approval in Exhibit A, including but not limited to, a Condition of Approval that requires the applicant to modify the proposed plans to reduce the shade and shadow impacts and the revised plans shall be reviewed and approved by the Director of Community Development; and 2) finding that the project is categorically exempt pursuant to California Environmental Quality Act section 15301 (Class 1).

### **BACKGROUND**

The existing two-story house is located on an approximately 4,454 SF lot located at 612 Bridgeport Lane. It was originally constructed as a two (2) bedroom home with 2,177 SF of living space, including the garage. On May 26, 2023, staff received the initial submittal for the second story addition for the property located at 612 Bridgeport Lane. The application was determined to be complete on September 7, 2023, after all plans and materials were submitted and reviewed. The project was scheduled for a [Planning Commission Public Meeting on October 19, 2023](#).

Consistent with the Use Permit (UP) process and procedures, the applicant notified adjacent properties of 612 Bridgeport Lane including 611 Plymouth Lane and 610 Bridgeport Lane.

The Notification Form for 610 Bridgeport Lane was returned to staff earlier on in the review process and was marked as having no objections to the proposed project (returned on June 26, 2023). As noted in the staff report for October 19, 2023, a solar impact study (Attachment 4) was prepared, indicating that the adjacent property located at 610 Bridgeport Lane would experience a loss of sunlight to their living room and kitchen windows on south elevation. The impacts to the living room windows occur in the Spring, Fall, and Winter, with the most significant impact happening in the Spring where three and a half hours of shading occurs. However, staff learned that the solar study was not reviewed by the adjacent property owner of 610 Bridgeport Lane (adjacent property owner) and requested the Planning Commission to continue the meeting to provide time for the adjacent property owner to review the solar impact study and share his comments, if any. On October 19, 2023, the Planning Commission voted 4-0-0-1(absent) to continue the item to [November 16, 2023, regular Planning Commission meeting](#).

The study has been shared via email with the adjacent property owner on multiple occasions including October 18<sup>th</sup>, 19<sup>th</sup> and 27<sup>th</sup>. Additionally, several attempts by both staff and the applicant have been made to directly reach the adjacent property owner including emails, phone calls, and an in-person visit to their place of business, to discuss the results of the study. Staff discussed the circumstances with the adjacent property owner's administrative assistant, who assured staff that the study would be forwarded to the property owner for their review. Staff did not receive confirmation of the adjacent property owner's review until November 15, 2023, in which they expressed concerns of the potential impacts to the living room and kitchen area of their home and asked to have additional time to review the study in detail. As such, during the November 16, 2023, regular Planning Commission meeting, staff recommended that the application be continued to the December 7, 2023, regular Planning Commission meeting.

On Wednesday, November 22, staff received an email from the adjacent property owner's administrative assistant that stated the following:

*"It is important for the Planning Commission to realize that I have reviewed the proposed building plans to the house next to my home at 610 Bridgeport Lane in Foster City. I have reviewed the amount of sunlight that will be lost affecting my yard and light going into my home. I have invested a great deal of money in my home and wish not to have it be depreciated by the construction next door. Therefore, I am denying my neighbor from construction of his second story. I have consulted with a local Foster City realtor and other professionals, and this is also their recommendation."*

Following receipt of the email from the adjacent property owner, he then contacted staff via phone on the same day, and reiterated his position to oppose the second story addition. He stated that he had consulted with a realtor regarding the proposal, who informed him that the addition may have a negative effect on the value of his property. And as a result, he opposes the proposed addition as it is currently designed.

On Wednesday, November 29, the adjacent property owner contacted staff via phone and stated that he had spoken to the applicant regarding the proposed second story addition. As such, the adjacent property owner is willing to consider withdrawing his opposition if a redesign of the proposal is made that will lessen the solar impact to his property. Additionally, the adjacent property owner has hired an architect to analyze the design as currently proposed, and may be willing to have his architect work with the applicant's architect to find resolution through a design that lessens the solar impacts on his property to reduce the impacts to less than three and a half hours of shading in the spring, fall and winter.

### **ANALYSIS AND RECOMMENDATION**

As stated in the October 19, 2023 staff report for this project, the project continues to be in conformance with the General Plan and the Zoning Municipal Code.

### **SOLAR IMPACTS**

The Planning Commission and City Council adopted [Solar Impacts Policy P-1-2000](#) on January 18, 2000, which provides for specific criteria to evaluate potential solar impacts on adjacent properties. The Policy calls for the analysis to answer to the following questions:

1. From which direction does the adjacent house receive direct sunlight?
2. When does the adjacent house currently receive direct sunlight?
3. Will the addition create ANY loss of sunlight to ANY window of an adjacent house?
  - If yes, what room(s) will be impacted (i.e., kitchen, living room, bedroom, etc.)?
4. Which season(s) of the year is there an impact?
5. During each season with an impact, what hours of the day will the sunlight be lost?
6. How many hours of sunlight are lost at each season?
7. How many hours of direct sunlight will be retained at each impacted season, and at what approximate time of day is this?

The Policy identifies kitchens, living rooms, dining rooms and rear yards as "high use" spaces and bedrooms as "low use" spaces. The Policy defines impact to the adjacent property as significant if the addition does the following:

- Completely eliminates all direct sunlight to any high-use living space in an adjacent house.
- Reduces more than two (2) hours of direct sunlight to a high-use living space (living/dining room or kitchen), or if it reduces more than four (4) hours of direct sunlight to low use space (bedroom, but not including bathroom).
- Reduces the amount of time that an adjacent house's window receives direct sunlight by more than 50 percent at any season where an impact occurs.

Upon further review of the neighbor's concerns, additional review of the existing neighborhood, and the proposed site plans, staff recommends the project to look into revisions to reduce the shade and shadow impact to living areas. As mentioned in the original staff report, the proposal has a significant impact to the living room and kitchen windows in Spring, Fall, and Winter. Staff reviewed the Solar Guidelines and as stated in the guidelines, these thresholds are not performance standards or rules and are intended to be flexible and considered on a case-by-case evaluation. However, upon further review of recent similar projects that went before Planning Commission, there has been no recommendation of approval for projects with significant impacts to this guideline in recent history with Planning Commission. Therefore, given the neighbor's objection to the project and the City's existing policy and practice, staff recommends that a Condition of Approval be added that requires the applicant to modify the proposed plans to reduce the shade and shadow impacts to less than the existing proposed project and the revised project shall be review and approved by the Director of Community Development.

Since the meeting on November 16, 2023, additional edits to the resolution (Attachment 1) has been made to reflect this revised recommendation.

### **ENVIRONMENTAL**

The proposed action would allow for a second story addition to be made to an existing single-family home. This action would not result in a physical change to the environment. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(Class 1), Existing Facilities, the project is categorically exempt from CEQA.

### **NEXT STEPS**

The Planning Commission's action on the proposal is final unless appealed to the City Council. There is an appeal period of ten (10) calendar days following any action of the Planning Commission.

### **INDIVIDUALS, ORGANIZATIONS, AND DOCUMENTS CONSULTED**

Farhad Rafatzand, Applicant and Architect  
Benjamin Chiu, Homeowner of 612 Bridgeport Lane  
City of Foster City General Plan  
[City of Foster City Zoning Ordinance](#)  
[City's adopted Architectural and Solar Guidelines](#)  
[Solar Impact Policy P-1-2000](#)

### **ATTACHMENTS**

Attachment 1 – Resolution  
Attachment 2 – Neighborhood Notification Report  
Attachment 3 – Solar Impact Study  
Attachment 4 – Plans

Attachment 5 – Project Description (Applicant)  
Attachment 6 – Email Neighbor Opposition