



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 16-0190, Version: 1

REPORT TO COUNCIL

SUBJECT

File #: 2015-7960

Location: 882 W. McKinley Ave. (APN: 165-46-057)

Zoning: R-1.7/PD (Low Medium Density Residential / Planned Development) Zoning District

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: Appeal of a Planning Commission decision by the property owner for a first floor addition of 280 square feet to the rear of the existing two-story, single-family home resulting in a building size of 2,425 square feet including a 415 square foot garage and a floor area ratio (FAR) of 60.35 percent.

Applicant / Owner: Rong Chang USA Corporation (applicant) / King and Lynn Wu (owner)

Environmental Review: Categorical Exemption pursuant to California Environmental Quality Act Section 15301 (minor alterations and additions to existing structure)

Project Planner: Teresa Zarrin, (408) 730-7429, tzarrin@sunnyvale.ca.gov

REPORT IN BRIEF

General Plan: Residential Low Medium Density (7-14 du/ac)

Existing Site Conditions: Single-family residence

Surrounding Land Uses

North: Washington Park (across W. McKinley Ave).

South: Single-family residence

East: Single-family residence

West: Single-family residence

Issues: Neighborhood compatibility, Floor Area Ratio

Staff Recommendation: Grant the appeal and Approve the Special Development Permit with Reasonable Accommodation, subject to the Conditions of Approval in Attachment 4 to this report and in accordance with the Findings in Attachment 3 to this report.

BACKGROUND

Benner School Site Development

The subject property is located on the south side of W. McKinley Ave. approximately half way between Pescadero Terrace and Sunset Avenue. See Attachment 1 for a map of the vicinity and mailing area for notices.

The existing two-story, single-family residence was constructed in 1994 as part of the former Benner

School site development by SummerHill Homes which includes about 100 homes (Somerset subdivision). The Somerset site is zoned R-1.7/PD. The R-1.7/PD zoning district was created to allow smaller lots (2,600 to 4,000 square feet) with smaller homes (40 percent lot coverage and 50 percent FAR) to offer a more affordable single-family detached home option. There are no conditions in the Special Development Permit that prohibit property owners from building additions to their homes, but any addition that causes the home to exceed 50 percent FAR in the R-1.7/PD zoning district must be reviewed by the Planning Commission. The PD combining district is always included with the R-1.7 zoning district to allow site design flexibility. The existing residence is approximately 2,145 square feet with a Floor Area Ratio of 53.38 percent.

There have been several projects at the Somerset development, similar to this application, which were recently considered by the Planning Commission:

Address	Addition s.f.	Location	Resulting FAR	Date
Approved Applications				
877 Markham Terrace	309	rear	57%	03/12/2012
866 Markham Terrace	356	front and rear	63%	02/23/2015
865 Markham Terrace	267	rear	60%	12/14/2015
897 Markham Terrace	164	rear	55.8%	01/11/2016
Subject Application				
882 W. McKinley Avenue	280	rear	60%	01/25/16

Reasonable Accommodation

Subsequent to the Planning Commission hearing the applicant requested that the City approve additional space on the ground floor of the house as a reasonable accommodation for the applicant's disability. The Municipal Code allows the City to grant a request for an exemption from zoning ordinances as a reasonable accommodation. This request can be considered as part of the appeal.

The purpose of the Reasonable Accommodations Chapter of the Sunnyvale Municipal Code is to:

Provide reasonable accommodations for the needs of persons with disabilities seeking access to housing, while at the same time ensuring necessary safeguards to protect the integrity of residential neighborhoods (Municipal Code, Chapter 19.65)

Reasonable accommodation is defined in 19.65(c) as:

a modification or exception to the regulations and procedures contained in this title for the siting, development and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide a person with a disability equal opportunity for the use and enjoyment of housing of their choice, and does not impose undue financial or administrative burdens on the city or require a fundamental or substantial alteration of the city's planning and zoning policies.

Additional discussion about the applicant's request is included below in the discussion section of the staff report. Six findings are required to be taken into consideration in order grant a Reasonable Accommodations request (Attachment 3).

Previous Actions on the Site

The Planning Commission reviewed this project on January 25, 2016 and denied the Special Development Permit application (See Minutes Attachment 10). The property owner appealed the denial (See Appeal Letter Attachment 11) because the proposed new areas downstairs address a disability.

DISCUSSION

Project Description: The applicant proposes a 280 square foot first floor addition to the rear of the existing two-story residence resulting in a building size of 2,425 square feet including a 415 square foot garage and a FAR of 60.35 percent (see Attachment 2 for the project Data Table). The proposed first-story addition extends 9 feet - 3 inches across the entire rear side of the house. The addition replaces the family room with a fifth bedroom, walk-in closet and full bathroom, and adds a kitchen nook in the rear of the first story of the house in order to replace a portion of the family room lost due to the new bedroom and full bathroom. The other four bedrooms are located on the second story. There are no changes proposed to the front of the home or the second story. Site and architectural plans are in Attachment 9.

Architecture: The existing architecture of the home is similar to the other homes in the development with stucco exterior and composition shingle roofing material. As proposed, the addition to the rear of the home would match the existing materials and architectural character of the house and the surrounding neighborhood.

Applicable Design Guidelines and Policy Documents: The proposed addition is consistent with the adopted Single Family Home Design Techniques as it generally maintains the existing shape and form of homes in the neighborhood. There is no impact on the streetscape because the addition is on the rear of the house. As a one-story addition to the rear of the home, the privacy impacts on the neighbors are minimal. Recommended Findings related to the Single Family Home Design Techniques are located in Attachment 3.

Development Standards: The proposed project complies with all applicable development standards including setbacks and parking (except FAR as discussed below), as set forth in the Sunnyvale Municipal Code. The following items have been noted for clarification:

- **Setbacks** - As approved in 1994, the existing setbacks are:
Front: 17 feet
Rear: 29 feet
Right: First floor- 0 feet, second floor- 3 feet
Left: First floor-8 feet 9 inches, second floor- 13 feet 2 inches

All setbacks remain unchanged except the proposed rear setback would be 19 feet 9 inches as detailed in the Project Data Table in Attachment 2. This setback meets the requirement for a single-story addition in the rear yard.

- **Rear Yard Encroachment** - The addition encroaches 3 inches into the 20 foot required rear yard for a total of 7.7 sq. ft., which is less than 1 percent of the required rear yard and does not exceed the allowable rear yard encroachment maximum of 25 percent.

- Lot Coverage - The applicant proposes 37.06 percent lot coverage which is below the 40 percent maximum allowed in the zoning district.
- Parking - The proposal meets the single-family parking requirement of two covered and two uncovered parking spaces.
- Floor Area Ratio - Since the Somerset site development was constructed in 1993-94, several homes have increased the FAR beyond the 50 percent limitation by creating an additional bedroom within a vaulted ceiling area over the living room (>15-foot ceiling height). In those cases, there were minimal visible changes to the exterior of the house and no increase in the footprint

It should be noted that when this neighborhood was originally developed, the City did not count vaulted ceiling areas above 15 feet in height as gross floor area or include it in the FAR calculation. In 2009, the Zoning Code definition of "Gross Floor Area" for single-family homes was amended to include areas with a 15-foot ceiling height or greater to be counted twice. The current zoning code requires that those open ceiling areas above 15 feet now be calculated as if they were floor area. With this change in the definition, all of the homes in the development with a vaulted ceiling area in the living room greater than 15 feet would now be calculated with an increased FAR over 50 percent.

The following table shows the differences in FAR for the original (1994) and the current (2009) definition for floor area.

	1994 original	2009 current
Existing House	50.7%	53.4%
Proposed House	57.6%	60.4%

When compared to the FAR of the surrounding neighborhood and other approvals for additions, the proposed FAR is similar to the recently approved projects in the neighborhood. Forty-one of approximately 100 homes in the neighborhood have FAR's over 50 percent (see FAR Comparison Attachment 8).

Privacy Impact: As a one-story rear addition, the proposal has minimal impact on the privacy of the adjoining properties.

- Rear Elevation Windows: The new windows and door on the rear elevation are similar in size and placement to the existing windows and are setback 19 feet 9 inches from the rear property line.
- Left Elevation Windows: The new bay window on the left elevation setback 13 feet 2 inches from the left property line is screened by the 5 feet 5 inches high fence on the property line.
- Right Elevation Windows: The two new bedroom windows and smaller bathroom window on the right elevation are setback 5 feet from the right property line exceeding the 4 feet minimum side setback required in the R-1.7/PD zoning district. They are all first-story windows that are mostly screened by the 5 feet 5 inch fence on the property line. The windowless garage portion of the right elevation has a 0 feet setback which was allowed in the original approval.

Neighborhood Compatibility: The property is an interior lot. Staff finds that the location of the addition at the rear of the property minimizes the impact to the streetscape and surrounding properties.

Planning Commission Hearing

The Planning Commission reviewed this project and denied the application expressing concerns about the high FAR and that adding a fifth bedroom may increase the number of vehicles on site. Commissioners also asked the applicant if they had explored other options such as installing an elevator, stairway lift, or moving.

Two neighbors attended the hearing and expressed concerns about the addition of windows on the zero lot-line side of the property, the high FAR, and adding a fifth bedroom. They also pointed out that the other projects that had previously been approved had special circumstances (i.e. corner lot, back yard abutting school district property) and that this property is an interior lot with no special characteristics. While the garage is located on the west property line (zero lot line), there is an existing extension of the house that is setback five feet from the west property line; there is an additional window in this extension. A six foot tall fence is located on the west property line.

The proposal considered by the Planning Commission did not include the information for reasonable accommodations that the applicant has included in this appeal. Although not related to the location of the lot, reasonable accommodation can be considered special circumstances. The municipal code includes direction and findings for granting reasonable accommodation.

Appeal

The applicant appealed the Planning Commission's decision stating the necessity of having a bedroom and full bathroom on the ground floor of their home (Attachment 11) and submitted a doctor's letter stating that the applicant, "has a disability that qualifies for Reasonable Accommodations under the Fair Housing and Amendments Act of 1988 and the California Fair Employment and Housing Act" (Attachment 12). At the Planning Commission hearing, the applicant indicated that she and her husband have mobility issues that make it difficult for them to use the stairs. The applicant is not required to give specific or detailed medical information about the disability.

Staff has considered the Reasonable Accommodations request and was able to make the findings to grant the request (see Attachment 3). The lack of a bedroom on the first floor in the development has proven to be challenging for the elderly homeowners in the development who wish to stay in their homes. About half of the square footage of this proposal provides a ground floor bedroom and full bathroom that is needed to provide the property owners reasonable accommodations in their elderly years. The other half of the addition replaces a family room (lost to the bedroom and bathroom addition) with a kitchen nook. The request for Reasonable Accommodations justifies the additional square footage for the bedroom and full bath. Although not specifically related to the Reasonable Accommodation, staff can also justify the kitchen nook addition, given it partially replaces the family room lost to the bedroom and bathroom addition. If the nook is not added, the only non-kitchen, living area accessible to the occupants is the living room in the front of the house.

The layout of the house does not easily accommodate an elevator without disrupting the floor plan. The applicant has stated that a stair lift will not fully meet their needs and they do not want/cannot

afford to move. Stair lifts are an important option for persons with disabilities, but have disadvantages including expense, high electricity usage, ongoing repair and maintenance costs, and risk of mechanical breakdown.

ENVIRONMENTAL REVIEW

The project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (minor alterations and additions to existing structure):

CLASS 1: EXISTING FACILITIES Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Class I includes additions to existing structures provided that the addition will not result in an increase of more than: (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The key consideration is whether the project involves negligible or no expansion of an existing use.

CONCLUSION

Staff was able to make the required Findings based on the justifications for the Special Development Permit and Reasonable Accommodation. Recommended Findings and General Plan Goals are located in Attachment 3. Recommended Conditions of Approval are in Attachment 4.

Alternatively, the City Council could determine that a reduced project may be a more appropriate fit with the surrounding neighborhood and would still meet the accommodation for a disability. The Council could limit the project to include the bedroom and bathroom but determine the proposed kitchen nook is not an essential requirement for reasonable accommodation.

FISCAL IMPACT No fiscal impacts other than normal fees and taxes are expected.

PUBLIC CONTACT

Notices of Planning Commission and City Council Public Hearings, Staff Report and Agenda:

- Published in the Sun newspaper (*Planning Commission hearing only*)
- 59 notices mailed to property owners and residents within 300 feet of the project site
- Posted on the City of Sunnyvale's website
- Provided at the Reference Section of the City of Sunnyvale's Public Library
- Agenda Posted on the City's official notice bulletin board
- Posted on subject property (*Planning Commission hearing only*)

Public contact for the City Council hearing was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Prior to the Planning Commission hearing, Staff received one email from the neighbor to the rear of the proposed project. The neighbor mentioned two main concerns about the project: window placement and the 60 percent FAR (Attachment 6).

The applicant submitted an approval letter from the neighborhood's Architectural Control Committee/Board of Directors. (Attachment 7)

ALTERNATIVES

1. Grant the appeal and approve the Special Development Permit with Reasonable Accommodation subject to the Conditions of Approval in Attachment 4 to this report and in accordance with the Findings in Attachment 3 to this report.
2. Grant the appeal and approve the Special Development Permit with modified conditions.
3. Grant the appeal and approve the Special Development Permit with a design to include only the downstairs bedroom and bathroom to provide Reasonable Accommodation.
4. Deny the appeal and uphold the decision of the Planning Commission to deny the Special Development Permit and provide direction to staff and the applicant where changes should be made.

STAFF RECOMMENDATION

Alternative 1: Grant the appeal and approve the Special Development Permit with Reasonable Accommodation subject to the Conditions of Approval in Attachment 4 to the report and in accordance with the Findings in Attachment 3 to the report.

Prepared by: Teresa Zarrin, Associate Planner

Reviewed by: Gerri Caruso, Principal Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Vicinity and Noticing Map
2. Project Data Table
3. Recommended Findings
4. Recommended Conditions of Approval
5. SDP Justification (Applicant)
6. Neighbor Feedback
7. Approval Letter from Somerset of Sunnyvale
8. FAR Comparison
9. Site and Architectural Plans
10. Planning Commission Minutes (1/25/16)
11. Applicant's Appeal Letter
12. Wus' M.D. Reasonable Accommodation Letters