



# City of Santa Clara

## Meeting Agenda

### Planning Commission

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Wednesday, February 26, 2020

6:00 PM

City Hall Council Chambers

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#### 6:00 PM REGULAR MEETING

Call to Order

Pledge of Allegiance and Statement of Values

Roll Call

#### DECLARATION OF COMMISSION PROCEDURES

#### CONTINUANCES/EXCEPTIONS

#### CONSENT CALENDAR

*Consent Calendar items may be enacted, approved or adopted, based upon the findings prepared and provided in the written staff report, by one motion unless requested to be removed by anyone for discussion or explanation. If any member of the Planning Commission, staff, the applicant or a member of the public wishes to comment on a Consent Calendar item, or would like the item to be heard on the regular agenda, please notify Planning staff, or request this action at the Planning Commission meeting when the Chair calls for these requests during the Consent Calendar review. Items listed on the Consent Calendar with associated file numbers constitute Public Hearing items.*

- 1.A     20-85**     [Consent: Action on Use Permit to expand the sale of alcoholic beverages \(existing ABC License Type 47\) and a new outdoor dining patio area at the Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard.](#)

**Recommendation:** Adopt a resolution approving a Use Permit for expansion of sale of alcoholic beverages (existing ABC License Type 47) in conjunction with the approval of a new outdoor dining patio area at the existing Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard, subject to conditions of approval.

- 1.B 20-183** [Consent: Action on Use Permit Amendment for ABC License Type 47 for Fleming's Prime Steakhouse located at 2762 Augustine Drive](#)

**Recommendation:** Adopt a Resolution approving a Use Permit Amendment for the sale and service of alcohol (ABC License Type 47) in a newly expanded restaurant (Fleming's Prime Steakhouse), subject to conditions of approval.

- 1.C 20-242** [Consent: Responses to Questions from the January 29, 2020 Housing Presentation](#)

**Recommendation:** Note and file this report.

### **PUBLIC PRESENTATIONS**

*Members of the public may briefly address the Commission on any item not on the agenda.*

### **PUBLIC HEARING**

*Items listed above under Items for Council Action will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items will not necessarily be heard on the date the minutes from this meeting are forwarded to the Council. Please contact the Planning Division office for information on the schedule of hearings for these items.*

- 2. 20-87** [Public Hearing: Action on a Variance to the lot coverage and covered parking requirements associated with an addition at 655 Jefferson Street](#)

**Recommendation:** Alternative 1: Adopt a resolution denying the Variance to allow an addition, with a 43.2% lot coverage and a one car covered parking space.

### **REPORTS OF COMMISSION/BOARD LIAISON AND COMMITTEE:**

1. Announcements/Other Items
2. Architectural Committee
3. Commissioner Travel and Training Reports, Requests to attend Trainings

### **DIRECTOR OF COMMUNITY DEVELOPMENT REPORTS:**

1. Planning Commission Budget Update
2. Upcoming Agenda Items
3. City Council Actions

**ADJOURNMENT:**

*The next regular scheduled meeting is on March 25, 2020 at 6:00 PM in the City Hall Council Chambers.*



## Agenda Report

20-85

Agenda Date: 2/26/2020

### REPORT TO PLANNING COMMISSION

#### **SUBJECT**

Consent: Action on Use Permit to expand the sale of alcoholic beverages (existing ABC License Type 47) and a new outdoor dining patio area at the Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard.

#### **REPORT IN BRIEF**

Project: Use Permit to allow a new outdoor dining patio area and expansion of sale of Beer, Wine & Distilled Spirits (existing ABC License Type 47) at the existing Cheesecake Factory restaurant to the new 1,084 square feet outdoor patio area.

Applicant: Jared Taylor, The Cheesecake Factory Restaurant Inc.

Owner: Scot Vallee, Unibail-Rodamco-Westfield

General Plan: Regional Commercial (RGCO)

Zoning: Community Commercial (CC)

Site Area: Cheesecake Factory restaurant within the Westfield Valley Fair Mall.

Staff Recommendation: Approve the Use Permit to allow a new outdoor dining patio area and expansion of existing ABC License Type 47 at the existing Cheesecake Factory restaurant to the new outdoor patio area.

#### **BACKGROUND**

The existing Cheesecake Factory restaurant occupies a 12,656 square foot (sf) tenant space. The applicant is requesting a Use Permit to allow a 1,084 sf new outdoor dining patio area with 54 seats and expansion of sale of beer, wine & distilled spirits (existing ABC License Type 47) at the existing Cheesecake Factory restaurant to the new outdoor patio area. The hours of operation, along with the proposed sale of alcohol, are from 11:00 a.m. to 11:00 p.m. Monday through Thursday, 11:00 a.m. to 12:30 a.m. on Friday, 10:00 a.m. to 12:30 a.m. Saturdays and 10:00 a.m. to 11:00 p.m. Sundays.

#### **DISCUSSION**

The primary issues for the project are consistency with the City's General Plan and Zoning and parking.

##### Consistency with the General Plan

The subject property has a General Plan designation of Regional Commercial (RGCO). This classification is intended for retail and commercial uses that provide local and regional services. It is intended for commercial developments that serve both Santa Clara residents and the surrounding region. A broad range of retail uses are allowed, including regional shopping centers and restaurants. The project is also consistent with the following General Plan policies:



#### Commercial Land Use Policies:

- 5.3.3-P1 Provide a mix of retail and commercial uses to meet the needs of local customers and draw patrons from the greater region.
- 5.3.3 P5 Encourage public amenities and active uses in commercial centers and along commercial corridors.
- 5.3.4-P11 Foster active, pedestrian oriented uses at the ground level, such as retail shops, offices, restaurants with outdoor seating, public plazas or residential units with front stoops, in mixed use development.

#### Zoning Conformance

The Zoning designation is Community Commercial (CC). Under the Community Commercial zoning designation for the Westfield Valley Fair Mall, restaurant uses are allowed by right, while alcohol sales and outdoor patios with more than 12 seats or more than 250 square feet are considered conditional uses. Therefore, a Use Permit is required to expand and maintain the proposed alcohol sales activity and to build and maintain the new outdoor dining patio area.

Per Santa Clara City Code (SCCC) Chapter 18.110, the Planning Commission cannot grant a Use Permit without first making specific findings related to the effect of the project on health, safety, peace, comfort, and the general welfare, based upon substantial evidence in the record. The findings in support of the request are contained in an attached resolution.

The applicant has provided a letter of justification to support the Use Permit request. There is no existing live entertainment at the restaurant. The applicant confirmed that they don't have any plans for having live entertainment in the future.

#### Circulation and parking

The number of seats and square footage of the restaurant interior is not changing. The applicant is proposing a 1,084 sf new outdoor dining patio area with 54 seats. Per SCCC Chapter 18.74, the required parking spaces for a restaurant is one space for each 200 square feet of floor area or one space for each three seats, whichever is greater. The required parking spaces for the new outdoor dining patio area is 18 spaces based on the 54 number of the seats provided. However, the restaurant is located as part of the Westfield Valley Fair Mall, which provides shared parking available to all patrons visiting the shopping center. Included in the Conditions of Approval (C7) is a requirement for the Planning Commission to review the Use Permit within 12 months from the date the applicant obtains an ABC Type 47 License. After six months from obtaining the ABC license, the City will conduct an administrative review of ABC violations and police service calls and shall report any significant occurrences to the Planning Commission.

#### Conclusion

The proposal is consistent with approval for the existing Westfield Valley Fair Mall. The proposed outdoor patio area fosters active pedestrian uses at the ground level. The proposed expansion of the on-site sale and consumption of alcohol is an ancillary use which would provide convenience to restaurant guests, further enhance a quality commercial use, meet the needs of local customers, and draw patrons from the greater region.

### **ENVIRONMENTAL REVIEW**

The proposed is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301(e), Class 1 Existing Facilities, as the activity consists of an addition to an existing structure that will not result in an increase of either 50% of the existing floor area or 2500 square feet.

**FISCAL IMPACT**

There is no cost to the City other than administrative staff time and expense for the typically covered by processing fees paid by the applicant.

**COORDINATION**

This report was coordinated with the City Attorney's Office.

**PUBLIC CONTACT**

A notice of public hearing of this item was posted in three conspicuous locations within 300 feet of the project site and mailed to property owners within 300 feet of the project site. Planning Staff has not received public comments for this application.

**RECOMMENDATION**

Adopt a resolution approving a Use Permit for expansion of sale of alcoholic beverages (existing ABC License Type 47) in conjunction with the approval of a new outdoor dining patio area at the existing Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard, subject to conditions of approval.

Prepared by: Elaheh Kerachian, Associate Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

**ATTACHMENTS**

1. Resolution Approving a Use Permit
2. Conditions of Approval
3. Letter of Justification
4. Development Plans

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, APPROVING A USE PERMIT TO ALLOW EXPANSION OF SALE OF ALCOHOLIC BEVERAGES (EXISTING ABC LICENSE TYPE 47) IN CONJUNCTION WITH A NEW OUTDOOR DINING PATIO AREA FOR THE EXISTING CHEESECAKE FACTORY RESTAURANT LOCATED AT 3041 STEVENS CREEK BOULEVARD, SANTA CLARA, CA**

PLN2019-14231 (Use Permit)

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on December 2, 2019, Jared Taylor, on behalf of the Cheesecake Factory Restaurant Inc. ("Applicant") applied for a Use Permit to allow expansion of sale of alcoholic beverages (existing ABC License Type 47) in conjunction with a new outdoor dining patio area for the existing Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard ("Site Location");

**WHEREAS**, the Site Location is currently zoned Community Commercial (CC) and has the General Plan land use designation of Regional Commercial (RGC0);

**WHEREAS**, in order to implement the proposed activity, the Site Location requires a Use Permit to allow expansion of the sale of alcoholic beverages for consumption in conjunction with food service, as well as to authorize the outdoor dining patio area and allow sale and consumption of alcoholic beverages in this area, at the restaurant occupying a commercial tenant space in the existing Westfield Valley Fair Mall, as shown on the Development Plans;

**WHEREAS**, the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., requires a public agency to evaluate the environmental impacts of a proposed project. The proposed project is categorically exempt from CEQA per CEQA Guidelines section 15301(e), Class 1 Existing Facilities, as the activity consists of an addition to an existing

structure that will not result in an increase of either 50% of the existing floor area or 2500 square feet.

**WHEREAS**, pursuant to SCCC Section 18.110.040, the Planning Commission cannot grant a Use Permit without first making specific findings related to the effect of the project on health, safety, peace, comfort, and general welfare, based upon substantial evidence in the record;

**WHEREAS**, on February 13, 2020, the notice of public hearing for the February 26, 2020 meeting date for this item was posted in three conspicuous locations within 300 feet of the Site Location and mailed to all property owners located within 300 feet of the Site Location; and,

**WHEREAS**, on February 26, 2020, the Planning Commission conducted a public hearing to consider the use permit application, at which all interested persons were given an opportunity to present evidence and give testimony, both in support of and in opposition to the proposed Use Permit.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the Planning Commission hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the Planning Commission hereby finds that approving a Use Permit to allow to allow expansion of the sale of alcoholic beverages for consumption in conjunction with food service, as well as to authorize the 1,084 sf outdoor dining patio area with 54 seats and consumption of alcoholic beverages in the patio area, is consistent with the commercial uses contemplated for the existing Westfield Valley Fair Mall.
3. That the Planning Commission hereby finds as follows:
  - A. The establishment or operation of the use or building applied for, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare in that the proposal would serve to expand the options available to local and regional

customers by providing additional services at an existing neighborhood convenience store to meet the interests of local customers and residents from the greater region;

B. Said use will not be detrimental to any of the following:

1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, in that the proposal provides a outdoor dining patio area for the existing restaurant that serves beer, wine and distilled spirits in conjunction with food in a commercial tenant space within an existing shopping center which meets all City of Santa Clara codes and regulations; the restaurant will be routinely manned and maintained; and the restaurant will comply with all City and state laws regarding the sale of alcoholic beverages;

2) The property or improvements in the neighborhood of such proposed use, in that the proposed use will occur in an existing retail tenant space, and on-site parking is sufficient and available to service the proposed use and the existing businesses;

3) The general welfare of the City, in that the proposed use expands the options available to the local and regional population by providing additional services to support businesses and residents in the vicinity of the Site Location;

C. That said use will not impair the integrity and character of the zoning district, in that the proposal is designed and conditioned in a manner to be compatible with adjacent commercial and residential development, on a developed parcel, with adequate parking, and properly designed ingress and egress points; and,

D. That said use is in keeping with the purposes and intent of the Zoning Code, in that alcoholic beverage sales and an outdoor patio with more than 12 seats or more than 250 square feet, may be conditionally permitted when the use would not be objectionable or detrimental to the adjacent properties in this Community Commercial zoning district.

4. That the Planning Commission hereby approves Use Permit PLN2019-14231 to allow expansion of the sale alcoholic beverages for consumption in conjunction with food service, as

well as to authorize the outdoor dining patio area, at the restaurant occupying a commercial tenant space in the existing Westfield Valley Fair Mall, subject to the Conditions of Approval and development plans, attached hereto and incorporated herein by this reference.

5. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 26th DAY OF FEBRUARY, 2020, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Development Plans
2. Conditions of Approval

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**Conditions of Approval**  
**3041 Stevens Creek Boulevard**  
**PLN2019-14231**

**GENERAL**

- G1. Developer agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, attorneys' fees, injuries, costs, and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against the City by reason of its approval of developer's project.
- G2. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.

**COMMUNITY DEVELOPMENT**

- C1. Obtain required permits and inspections from the Building Official and comply with all building code requirements and conditions thereof.
- C2. The project shall comply with all California Department of Alcoholic Beverage Control licensing requirements.
- C3. The Director of Community Development may refer the Use Permit to the Planning Commission at any time to consider the initiation of revocation proceedings if the conditions of approval are violated or the operation is inconsistent with the approved project description. In addition, if complaints are received by the City with respect to this use, staff shall provide a review of the Use Permit to the Planning Commission within three months for consideration of revocation proceedings.
- C4. Full menu food service shall be available during all hours that the restaurant is open and alcoholic beverages are served.
- C5. The hours of operation shall be limited to hours from 11:00 a.m. to 11:00 p.m. Monday through Thursday, 11:00 a.m. to 12:30 a.m. on Friday, 10:00 a.m. to 12:30 a.m. Saturdays and 10:00 a.m. to 11:00 p.m. Sundays.
- C6. No live entertainment or amplified music will be allowed, unless it is wholly incidental to the restaurant use.
- C7. The Planning Commission shall review this Use Permit PLN2019-14231 twelve (12) months from the date that applicant obtains an active Alcoholic Beverage Control (ABC) License Type 47. After six months from obtaining the ABC license, the City shall conduct an administrative review of any ABC violations and police service calls, and shall report any significant occurrences to the Planning Commission.
- C8. Applicant is responsible for collection and pick-up of all trash and debris on-site and adjacent public right-of-way.
- C9. The business shall undergo a 6 month and 1 year review by the City of Santa Clara, including a check for ABC violations and police service calls.
- C10. The business operator shall strictly adhere to the business hours as stated in the use permit.

**ENGINEERING**

- E1. Obtain site clearance through Public Works Department prior to issuance of Building Permit. Site clearance will require payment of applicable development fees.

Other requirements may be identified for compliance during the site clearance process. Contact Public Works Department at (408) 615-3000 for further information.

- E2. All work within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors shall be included within a Single Encroachment Permit issued by the City Public Works Department. Issuance of the Encroachment Permit and payment of all appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.

### **PARKS AND RECREATION**

- PR1. City Code Chapter 17.35 applies to anyone who constructs or causes to be constructed a dwelling unit or dwelling units or who subdivides residential property. Since there is no residential component, this project is not subject to the Park and Recreational Land ordinance.

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February 21, 2019

City of Santa Clara Planning Department  
1500 Warburton Avenue  
Santa Clara, CA 95050

Re: Conditional Use Permit and Design Review Request  
The Cheesecake Factory restaurant  
3041 Stevens Creek Blvd.  
Space L1  
Santa Clara, CA 95050

Santa Clara Planning Department,

This letter is to formally present a Conditional Use Permit and Design Review request for a proposed The Cheesecake Factory restaurant remodel at the above referenced location. Please note The Cheesecake Factory currently operates at the subject location, the proposal is to modify the dining area, and create an outdoor patio. The Cheesecake Factory will continue to sell a full line of alcoholic beverages for onsite consumption in conjunction with a Type 47 ABC license.

The Cheesecake Factory story begins in Detroit, Michigan in the 1940's. Evelyn Overton found a recipe in the local newspaper that would inspire her "Original" Cheesecake. Everyone loved her recipe so much that she decided to open a small Cheesecake shop, but she eventually gave up her dream of owning her own business in order to raise her two small children, David and Renee. She moved her baking equipment to a kitchen in her basement and continued to supply cakes to several of the best restaurants in town while raising her family. Son David decided to open a restaurant to showcase his mother's selection of cheesecakes. Somehow he just knew that guests would enjoy a restaurant with an extensive dessert menu. It was 1978 and he opened the first The Cheesecake Factory restaurant in Beverly Hills, CA. The restaurant was an immediate success and today there are more than 200 The Cheesecake Factory restaurants around the world that share the Overton's commitment to quality and spirit of innovation and hard work.

The existing The Cheesecake Factory restaurant at 3041 Stevens Creek Blvd occupies 12,656 sq. ft. tenant space with proposed adjacent outdoor 1,084 sq. ft. patio area. The Cheesecake Factory is proposed to operate from 11:00AM to 11:00PM Monday through Thursday, 11:00AM to 12:30AM on Fridays, 10:00AM to 12:30AM Saturdays and 10:00AM to 11:00PM on Sundays. The Cheesecake Factory proposes to employ 40 to 60 employees per shift. The Cheesecake Factory proposes the sale of a large menu of food, drink and desert items including the sale of a full line of alcoholic beverages for onsite consumption. Alcohol will be stored behind the service counter and in the storage area in the back of the restaurant, locations which are not publicly assessable. Alcohol is proposed to be sold to patrons within the restaurant and on the outdoor patio areas for onsite consumption. No dancing and no live entertainment are proposed. The restaurant will use a POS system to track all food and beverage sales, the POS system will be able to track sale of alcohol and non-alcoholic items. The kitchen will be open at all times the restaurant is open, and The Cheesecake Factory expects that the sale of alcoholic beverages will account for approximately 8% of total gross sales. The Cheesecake Factory requires that all management undergo thorough training in the serving of alcoholic beverages to ensure safe and responsible consumption and that alcoholic beverages are not sold to or consumed by minors on the premises. The Cheesecake Factory employees conduct

regular sweeps and engaged observation of the premises to ensure that alcoholic beverages are not removed from the premises, to include the outdoor patio.

The proposed project location, size, design and operational characteristics will not create noise, traffic or other conditions or situations which may be objectionable, detrimental or incompatible with other permitted uses in the vicinity. As a part of the larger development, The Cheesecake Factory will be surrounded by retail/restaurant uses and major roadways. All traffic in association with the subject tenant space has been previously calculated and mitigated. The Cheesecake Factory will not emit any excessive noise.

The proposed project will not result in conditions or circumstances contrary to the public health, safety and general welfare. In fact The Cheesecake Factory family friendly restaurant will add to the public health, safety and general welfare through providing high quality food and drink items in a safe and controlled environment. No live entertainment or dancing is proposed.

The proposed family friendly restaurant use will provide a service or facility which will contribute to the general wellbeing of the neighborhood or the community; and the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity; and the proposed use will not adversely affect the present economic stability or future economic development of property in the surrounding area. The proposed use will actually provide public convenience and necessity through providing reasonably priced appetizers, entrees, sandwiches, and drinks in a casual dining environment. Patrons of such high quality establishments have come to expect the availability of beer and wine to compliment such food items. The Cheesecake Factory operates over 200 locations nationwide, and the sales of alcoholic beverages account approximately 8% or less of total sales, with the remaining 92% of sales comprised of food, deserts and non-alcoholic beverages.

A. The use would be consistent with the intent and purpose stated in the sections of this title which establish the applicable zoning classification.

**The subject site is an existing commercial restaurant tenant space, currently a restaurant within the Planned Development (PD) zoning area. The proposed The Cheesecake Factory family friendly restaurant use with outdoor patio and the sale of alcohol for onsite consumption will be harmonious with surrounding uses and similar to the previous restaurant use of the existing tenant space. The proposed The Cheesecake Factory use will continue to uphold the intent and purpose of the existing Planned Development Zoning.**

B. The use would be consistent with the general plan.

**The existing commercial restaurant tenant space is located within an existing fully developed shopping center which provides for neighborhood shopping needs. The Cheesecake Factory family friendly restaurant will serve public convenience and necessity by providing high quality and reasonably priced meals within an inviting indoor and outdoor patio atmosphere together with the sale of beer and wine as an accessory to the restaurant use. Many local residents and customers have come to expect the availability of alcohol for onsite consumption to be served in conjunction with such a quality restaurant environment.**

C. The use will not be detrimental to the health, safety, morals, comfort, convenience or general welfare of persons residing or working in the neighborhood of such proposed use, nor be injurious to property or improvements in the neighborhood.

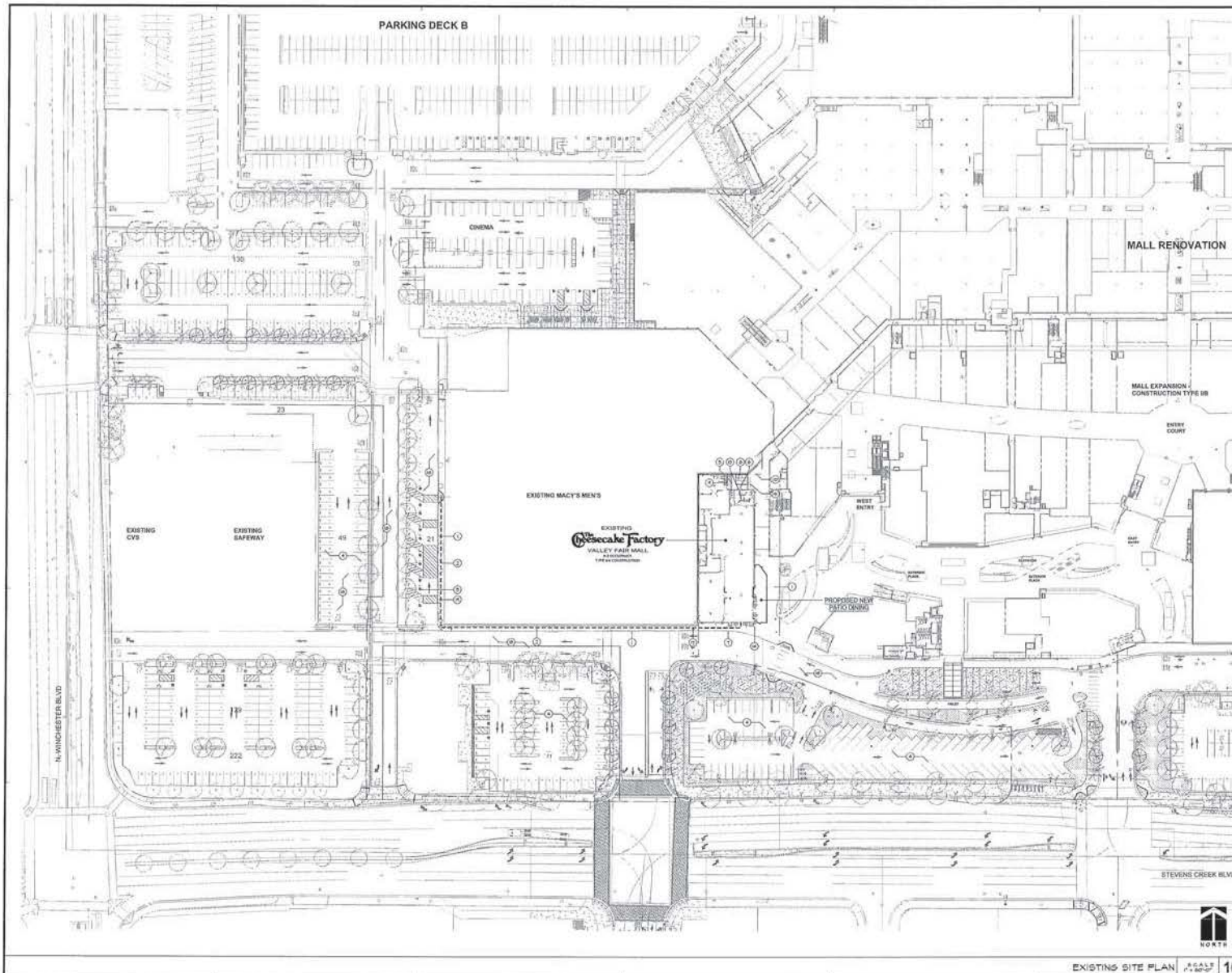
**The approval of The Cheesecake Factory family friendly restaurant with outdoor patio and the sale of alcohol for onsite consumption will not detrimentally affect general welfare of persons residing or working in the neighborhood. The proposed restaurant location has been master planned and design to be harmonious with surrounding uses. The site is part of the commercial complex that is currently being upgraded by the property owner. In fact The Cheesecake Factory will serve the public convenience can necessity by providing high quality and reasonably priced meals within an inviting indoor and outdoor patio atmosphere together with the sale of alcohol as an accessory to the restaurant use. Many local residents and customers have come to expect the availability of alcohol for onsite consumption to be served in conjunction with such a quality restaurant environment. As a tenant improvement of an existing restaurant tenant space The Cheesecake Factory restaurant will not injure property or improvements in the neighborhood. In fact The Cheesecake Factory restaurant tenant improvement will add to the property improvements in the neighborhood by providing a high quality restaurant operation surrounded by an attractive new restaurant tenant improvement design.**

D. The use will not be detrimental to the general welfare.

**The approval of The Cheesecake Factory family friendly restaurant with outdoor patio and the on-site consumption alcohol will not detrimental to the general welfare of the pertinent community. Rather the Project will positively benefit the economic welfare of the community and Community of Santa Clara. The Cheesecake Factory will establish a first-class eating and drinking establishment within an existing tenant space. Such an establishment will support visitors and patrons to the surrounding area, and help create additional economic opportunity for the adjacent neighboring retail facilities.**

Sincerely,

Jared Taylor  
Golden Property Development



- SITE PLAN KEYNOTES**
- 1. EXISTING CONCRETE SIDEWALK BY LANDLORD
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  - 99. EXISTING PARKING SHALL BE LANDLORD
  - 100. EXISTING PARKING SHALL BE LANDLORD

**ARCHITECTS**

**DESIGN CONSORTIUM**

405 E. LA PALMA AVE. STE. 407  
ANAHEIM, CA 92807  
TEL: (714) 777-9733  
FAX: (714) 777-9734

**THE Cheesecake Factory**

PATIO ADDITION/REMODEL  
INTERIOR REMODEL  
V.A.L.  
3041 Stevens Creek Blvd., Suite L1, Santa Clara, CA 95050

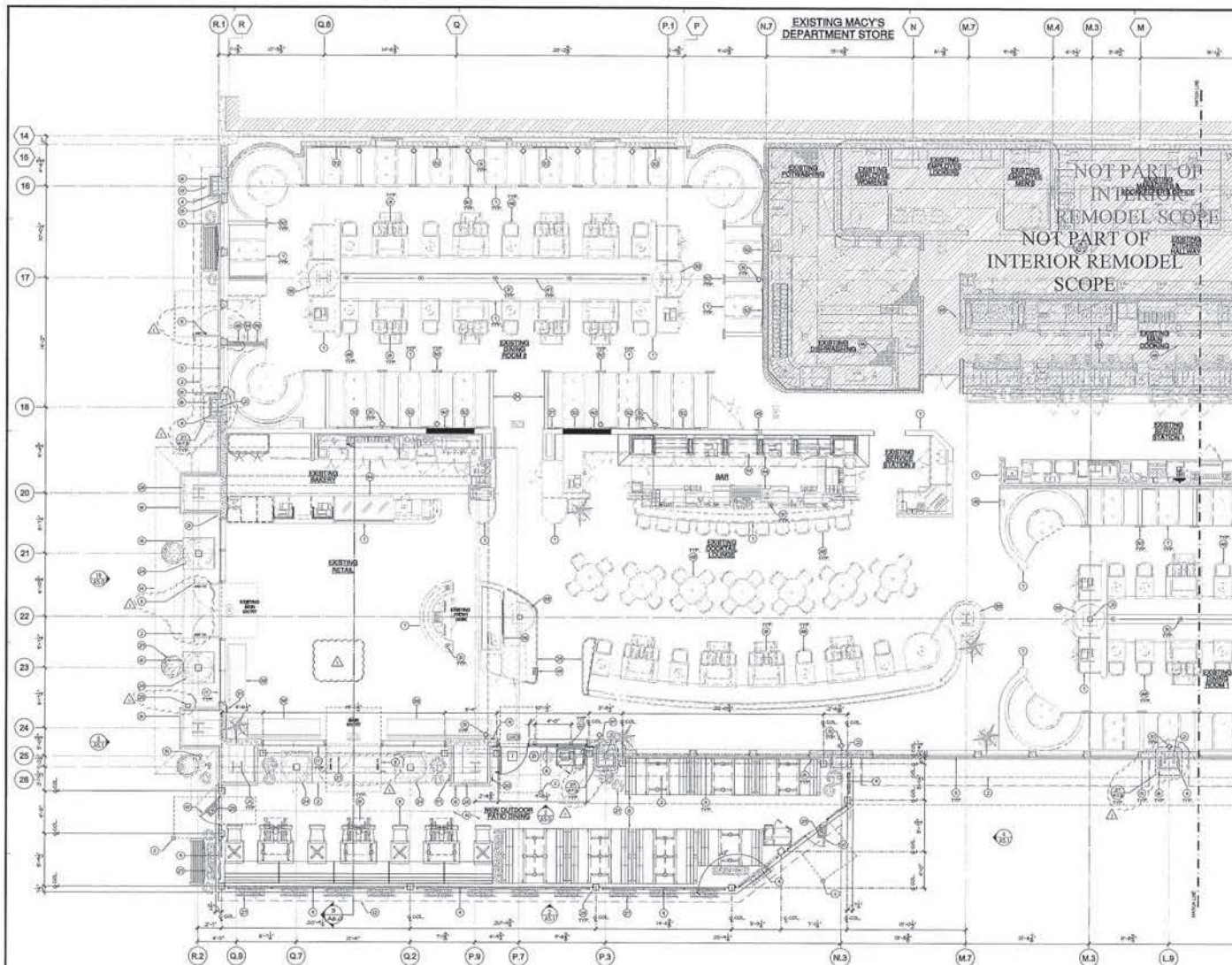
**EXISTING SITE PLAN**

**SCALE** 1" = 40'

**10**

**A1.0**





# FLOOR PLAN KEYNOTES

1. AT LEAST LINE
2. LINE OF ENTRY ABOVE
3. TO REMOVED TO REPAIR
4. TO REMOVED TO REPAIR
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28. TO REMOVED TO REPAIR



FLOOR PLAN-SOUTH 10

ARCHITECTS

**DESIGN CONSORTIUM**  
 4175 E. LA PALMA AVE. STE. 607  
 ANAHEIM, CA 92807  
 TEL: (714) 771-9732  
 TEL: (714) 771-9734

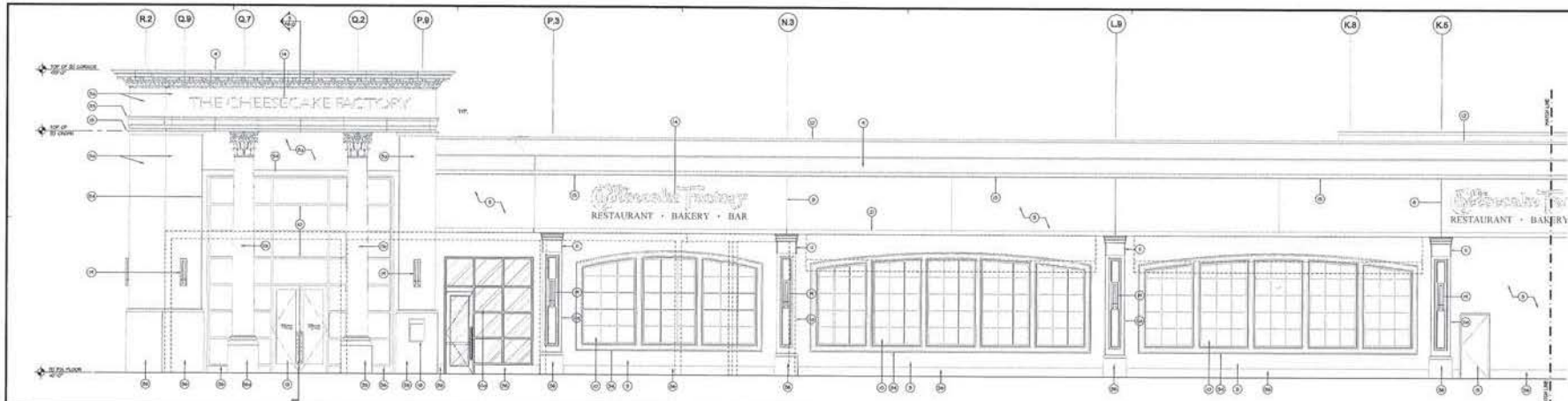
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27	CONSTRUCTION
28	CONSTRUCTION

**The Cheesecake Factory**  
 PATIO ADDITION/MINOR  
 INTERIOR REMODEL  
 V.A.L. ARCHITECTS  
 3541 Serrano Drive, Suite 101, Santa Ana, CA 92705

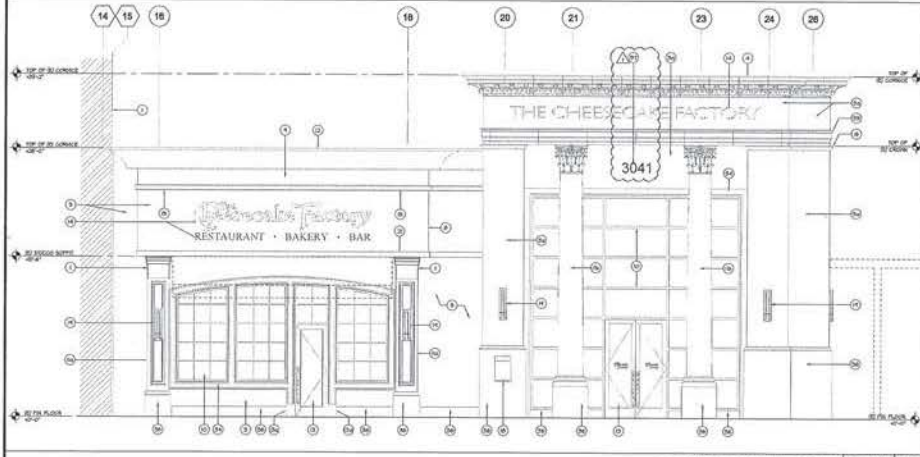
**A2.0**  
 SHEET 10  
 10/10/00



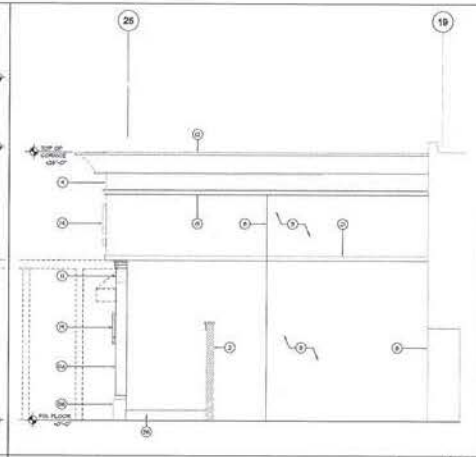




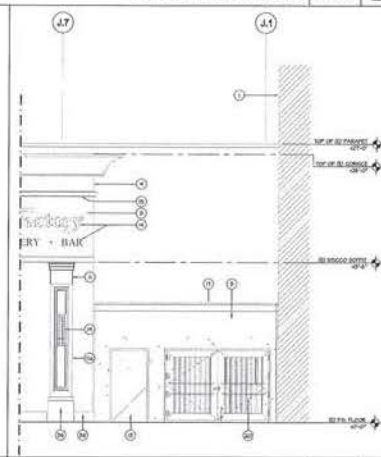
WEST EXTERIOR ELEVATION SCALE 1/8" = 1'-0" 2



SOUTH EXTERIOR ELEVATION SCALE 1/8" = 1'-0" 19



NORTH EXTERIOR ELEVATION SCALE 1/8" = 1'-0" 9



EAST EXTERIOR ELEVATION SCALE 1/8" = 1'-0" 4

NOTES:

1. EXISTING FIBERGLASS SHALL BE REFINISHED TO MATCH COLOR AND FINISH OF NEW FIBERGLASS. REFINISHING SHALL BE DONE BY THE CONTRACTOR. SEE SCHEDULE ON U.S. DRAWINGS.
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4. A SEPARATE SHOP DRAWING IS REQUIRED FOR ALL EXTERIOR WORK. SEE SCHEDULE ON U.S. DRAWINGS.

LEGEND:

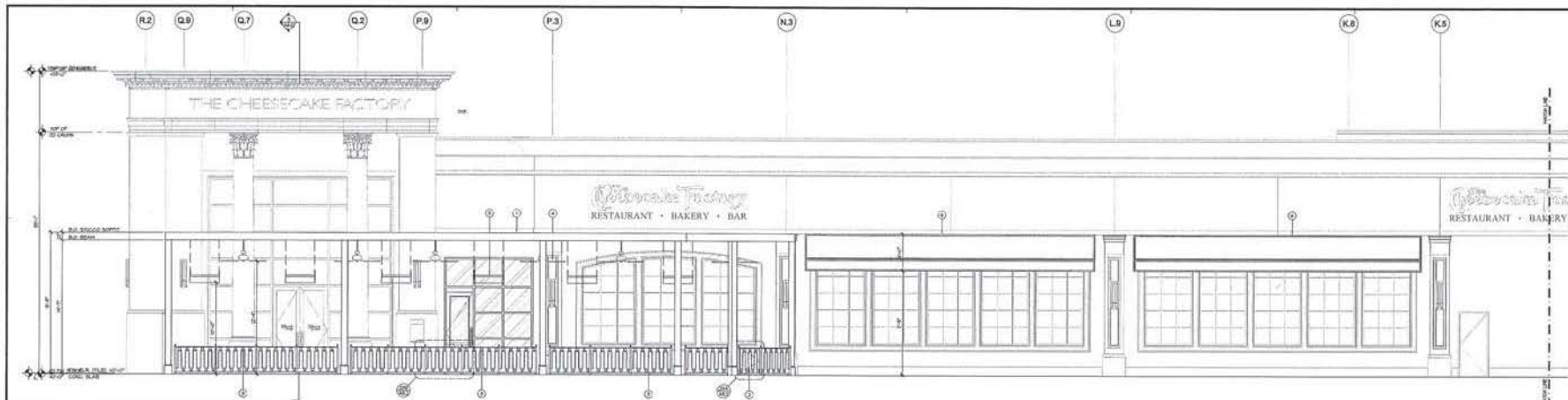
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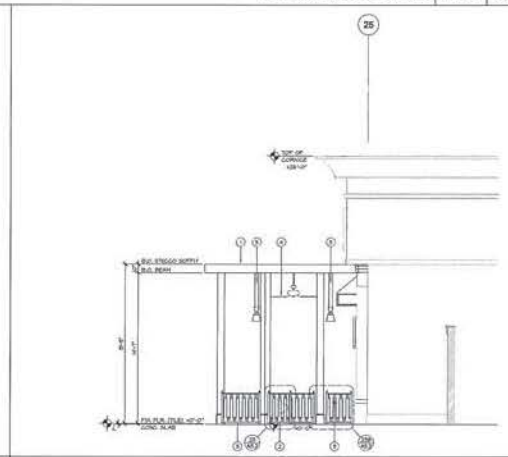
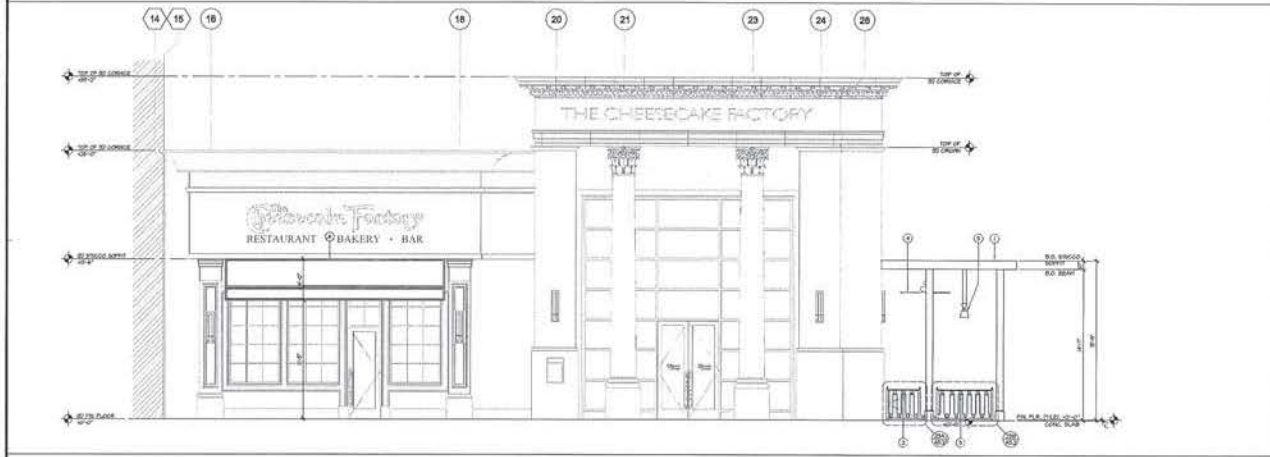
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ELEVATION KEYNOTES

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EAST EXTERIOR ELEVATION 2



- PATIO ELEVATION KEYNOTES**
- 1 NEW PATIO CANOPY STRUCTURE BY OTHERS
  - 2 NEW DECORATIVE METAL PATIO GATE, PLUM, SHOWN ONLY, WARE DOES NOT LATCH ON LOCK
  - 3 NEW DECORATIVE METAL PATIO RAILING
  - 4 NEW PATIO CEILING FAN, SEE ELEC. DRAW.
  - 5 NEW PATIO FLOOR, SEE ELEC. DRAW.
  - 6 FARMER ARMS OVER METAL FRAME (2)

ARCHITECTS  
  
**DESIGN CONSORTIUM**  
 4075 E. LA PALMA AVE. STE. 307  
 AGAHEID, CA 92007  
 FAX: (714) 777-8532  
 TEL: (714) 777-9734

REVISIONS

NO.	DATE	DESCRIPTION
1	10/1/01	ISSUED FOR PERMIT
2	10/1/01	ISSUED FOR PERMIT
3	10/1/01	ISSUED FOR PERMIT
4	10/1/01	ISSUED FOR PERMIT
5	10/1/01	ISSUED FOR PERMIT
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24	10/1/01	ISSUED FOR PERMIT
25	10/1/01	ISSUED FOR PERMIT

**The Cheesecake Factory**  
 PATIO ADDITION/MINOR  
 INTERIOR REMODEL  
 VALLEY AT R MALL  
 3041 TOWNES DRIVE (Rte. 91) Suite 101, San Juan Capistrano, CA 92675

DATE: 10/1/01  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 SCALE: AS SHOWN  
**A5.1**





## Agenda Report

20-183

Agenda Date: 2/26/2020

### REPORT TO PLANNING COMMISSION

#### **SUBJECT**

Consent: Action on Use Permit Amendment for ABC License Type 47 for Fleming's Prime Steakhouse located at 2762 Augustine Drive

#### **REPORT IN BRIEF**

Project: Use Permit to allow on-site sale and consumption of a full range of alcohol (ABC Type 47 License)

Applicant: Fleming's Prime Steakhouse & Wine Bar

Owner: Irvine Company Retail Properties

General Plan: Regional Mixed Use

Zoning: Planned Development (PD)

Site Area: 10,453 square foot tenant space

Existing Site Conditions: Existing tenant space within Santa Clara Square

#### Surrounding Land Uses

North: U.S. 101 Highway (U.S. 101)

South: Industrial Uses

East: Industrial Uses

West: Retail and Office Uses

Issues: Consistency with the City's General Plan and Zoning Ordinance

Staff Recommendation: Adopt the resolution approving the Use Permit, subject to conditions of approval

#### **BACKGROUND**

The applicant is requesting a Use Permit Amendment to allow the sale and service of alcohol within the 3,078 square-foot expansion to the existing restaurant. The restaurant currently occupies a 7,375 square-foot tenant space with 234 existing seats in Santa Clara Square, a multi-tenant retail/apartment mixed-use complex at the northeast corner of Bowers Avenue and Scott Boulevard. The proposal would expand the restaurant by 3,078 square feet for a total of 10,453 square feet and 335 seats. The existing 7,375 square-foot restaurant obtained a Use Permit for the on-site sale and consumption of alcohol in 2016 (PLN2016-11970).

Fleming's Prime Steakhouse is a full-service restaurant chain. The restaurant is open Monday through Saturday from 11 a.m. to 11 p.m. and Sunday 10 a.m. to 11 p.m. Alcohol sales for on-site consumption are proposed daily during food service hours in the main dining room, private dining rooms, bar, and patio area. Fleming's Prime Steakhouse does not anticipate any entertainment uses at this location other than ambient music.

## **DISCUSSION**

The primary issues for the project are consistency with the City's General Plan and Zoning Code.

### **Consistency with the General Plan**

The subject property has a General Plan designation of Regional Mixed Use. This classification is a combination of the Regional Commercial and High-Density Residential designations and is intended for high intensity, mixed use development along major transportation corridors in the City. This designation permits all types of retail, local serving offices, hotel and service uses, except for auto-oriented uses, to meet local and regional needs. The proposed project is consistent with the following General Plan policies:

- 5.3.4 P6: Locate a neighborhood square or plaza within large mixed use developments.
- 5.3.4 P11: Foster active, pedestrian oriented uses at the ground level, such as retail shops, offices, restaurants with outdoor seating, public plazas or residential units with front stoops, in mixed use development.

### **Zoning Conformance**

The zoning designation for the subject property is Planned Development (PD). This district is intended to accommodate development that is compatible with the existing community and that integrates uses that are not permitted to be combined in other zone districts; or utilizes imaginative planning and design concepts that would be restricted in other zone districts; or subdivides land or air space in a manner that results in units not having the required frontage on a dedicated public street; or creates a community ownership project.

SCCC Section 18.110.040 specifies the findings required in order for the Planning Commission to grant a Use Permit. Included in the Conditions of Approval (C7) is a requirement for the Planning Commission to review the Use Permit within 12 months from the date the applicant obtains their modified ABC Type 47 license. After six months from obtaining the ABC license, the City shall conduct an administrative review of ABC violations and police service calls and shall report any significant occurrences to the Planning Commission.

### **Use Permit Findings**

The applicant is requesting a Use Permit to allow on-site sale and service of alcohol (ABC License Type 47) in a newly expanded restaurant. The applicant has provided proposed findings to support the Use Permit request and is attached to this staff report. Use Permit findings prepared by staff and presented in the attached Planning Commission Resolution supporting approval of the request.

### **Circulation and Parking**

Santa Clara Square is accessed from Augustine Drive or Scott Boulevard by four driveways. The PD development standards for the retail center and residential/mixed use (PLN2014-10257/PLN2015-10900) propose one parking space for each 200 square feet of floor area regardless of the number of seats. Parking for dedicated outdoor dining is required at a rate of one parking space per three seats. The parking standards are generally consistent with the City's parking regulations. With the restaurant expansion, a total of 335 seats, including 44 existing patio seats, are proposed.

Santa Clara Square has a Master Retail Seating and Parking Permit Program in place (PLN2016-

11668). Additional retail parking would be provided on site within the office campus parking garage located across Augustine Drive near the western portion of the project site. There are 320 parking spaces available within the office parking garage for Santa Clara Square retail employee and customer parking. The number of available parking spaces within the parking garage may vary but will be available indefinitely for retail parking.

#### Conclusion

The proposal is consistent with the General Plan and zoning designations for the subject property, and would allow service to an expanded area of an existing restaurant. The proposed expansion of the on-site sale of alcohol continues an ancillary activity to the permitted restaurant use that would meet customer needs and convenience, enhance a quality commercial use and dining experience, and draw local and regional patronage to the restaurant.

#### **ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301, Class 1 Existing Facilities, in that the proposed use will occur inside an existing building involving negligible or no expansion of an existing use.

#### **FISCAL IMPACT**

There is no cost to the City other than administrative staff time and expense which are offset by permit application fees.

#### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

#### **PUBLIC CONTACT**

Public notice was posted within 300 feet of the project site and mailed to property owners within 300 feet of the project site.

#### **RECOMMENDATION**

Adopt a Resolution approving a Use Permit Amendment for the sale and service of alcohol (ABC License Type 47) in a newly expanded restaurant (Fleming's Prime Steakhouse), subject to conditions of approval.

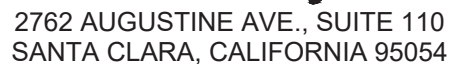
Prepared by: Rebecca Bustos, Associate Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

#### **ATTACHMENTS**

1. Development Plans
2. Resolution Approving the Use Permit
3. Conditions of Approval
4. Applicant Statement



## SITE INFORMATION

PROJECT DESCRIPTION:

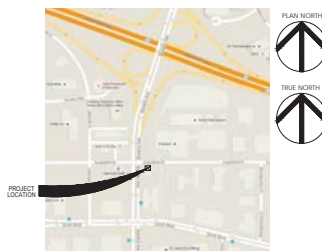
THIS PROJECT CONSISTS OF EXTERIOR AND INTERIOR RENOVATIONS AND EXPANSION TO THE EXISTING 7,375 S.F. FLEWING'S PRIME STEAKHOUSE RESTAURANT.

EXTERIOR RENOVATIONS CONSIST OF NEW STOREFRONT IN EXISTING OPENINGS, AND AN EXPANSION OF THE INTERIOR RESTAURANT FOOTPRINT. IMPACTED AREA IS 7,375 S.F. EXISTING, AND 3,078 S.F. NEW.

## SHEET INDEX

#	SHEET NAME
A000	COVER SHEET
A001a	OVERALL SITE PLAN
A001	SITE PLAN
A002	EXISTING FLOOR PLAN
A003	PROPOSED FLOOR PLAN
A004	EXTERIOR ELEVATIONS

## VICINITY MAP



## PROJECT DIRECTORY

**CLIENT:**  
BLOOMIN BRANDS  
2202 NORTH WESTSHORE BLVD. 5TH FLOOR  
TAMPA, FL 33607  
CONTACT: JACOB CLARY, BBI CPM  
PHONE: (813) 282-1225  
FAX: (813) 288-8549  
EMAIL: [jacobclary@bloomingbrands.com](mailto:jacobclary@bloomingbrands.com)

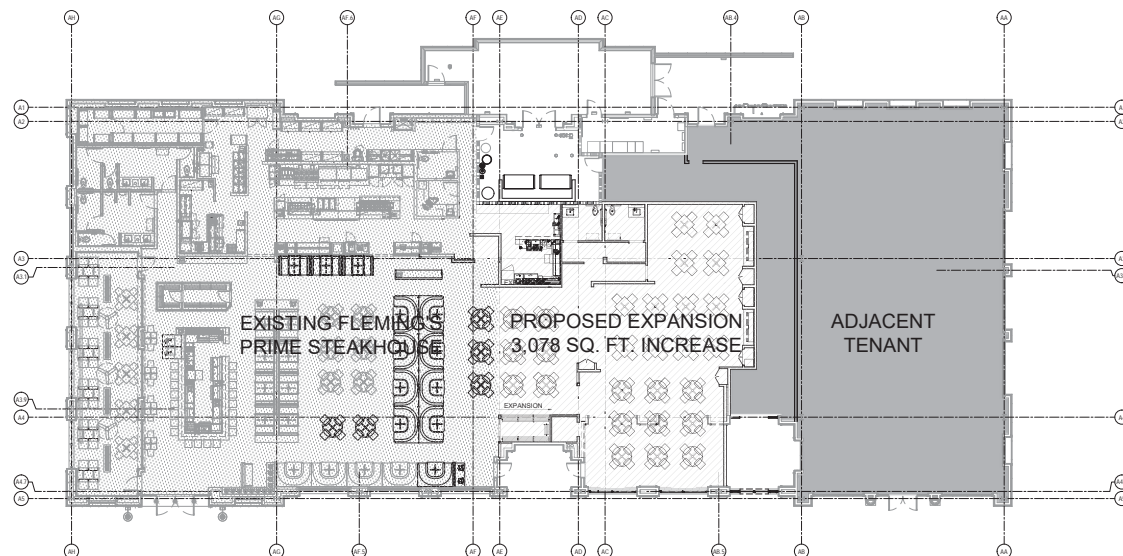
**ARCHITECT:**  
CESO, INC.  
1305 NE McCLAIN ROAD  
SUITE 7  
BENTONVILLE, AR 72712  
CONTACT: BEN BELL  
PHONE: (479) 271-8058  
FAX: (479) 271-0621  
EMAIL: [bell@cesoinc.com](mailto:bell@cesoinc.com)

**MEP ENGINEER:**  
WHS ENGINEERING  
2012 WEST 25TH ST., SUITE 200  
CLEVELAND, OHIO 44113  
ELECTRICAL CONTACT: GREG SUITYAK  
PHONE: (216) 227-8505 (X102)  
EMAIL: [Greg@whs-eng.com](mailto:Greg@whs-eng.com)  
MECHANICAL CONTACT: JEFF ZUNT  
PHONE: (216) 227-8505 (X110)  
FAX: (216) 227-8570  
E-MAIL: [jeff@whs-eng.com](mailto:jeff@whs-eng.com)

**FIRE PROTECTION ENGINEER:**  
HENDERSON ENGINEERS INC.  
510 W 6TH STREET, SUITE 1105  
LOS ANGELES, CA 90014  
CONTACT: ROBERT HARRIS  
PHONE: (913) 742-5358  
FAX: (913) 742-5001  
E-MAIL: [robert.harris@hei-eng.com](mailto:robert.harris@hei-eng.com)

**STRUCTURAL ENGINEER:**  
DCI ENGINEERS  
2600 MICHELSON DRIVE, SUITE 930  
IRVINE, CA 92612  
CONTACT: SANDRA BIDDULPH  
PHONE: (949) 892-4950  
FAX: (949) 892-4970  
E-MAIL: sbiddulph@dc-engineers.com

## NEW EXPANSION PLAN



## SCOPE OF WORK

**SCOPE OF WORK** (INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:)

## BUILDING INFORMATION

CODE JURISDICTION	
ZONING:	CITY OF SANTA CLARA PLANNING DIVISION
BUILDING:	CITY OF SANTA CLARA INSPECTION DIVISION
FIRE:	SANTA CLARA FIRE DEPARTMENT
HEALTH:	SANTA CLARA COUNTY DEPT OF ENVIRONMENTAL HEALTH

APPLICABLE CODES

BUILDING CODE:	2016 CALIFORNIA BUILDING CODE (CBC)
FIRE CODE:	2016 CALIFORNIA FIRE CODE
PLUMBING CODE:	2016 CALIFORNIA PLUMBING CODE
MECHANICAL CODE:	2016 CALIFORNIA MECHANICAL CODE
ELECTRICAL CODE:	2016 CALIFORNIA ELECTRIC CODE
ENERGY CONSERVATION CODE:	2016 CALIFORNIA ENERGY CODE
ACCESSIBILITY CODE:	2016 CALIFORNIA BUILDING CODE, CHAPTER 11B
OTHER APPLICABLE CODES:	2016 CALIFORNIA GREEN BUILDING STANDARDS

\*ALL WORK SHALL COMPLY WITH REQUIREMENTS OF THE LOCALLY ADOPTED ACCESSIBILITY CODE.

GENERAL CODE DATA

MAIN USE GROUP:	A-2
CONSTRUCTION TYPE:	TYPE VB
ALLOWABLE BUILDING HEIGHT:	40' / 1 STORY WITH 20' / 1 STORY INCREASE + 40' / 2 STORES
ACTUAL BUILDING HEIGHT:	TALLEST FEATURE AT 34'-0"
FIRE SPRINKLER:	AUTOMATIC SPRINKLER SYSTEM THROUGHOUT
FIRE ALARM:	FIRE ALARM SYSTEM THROUGHOUT
SQUARE FOOTAGE:	7,375 S.F. EXISTING TENANT AREA 3,078 S.F. EXPANSION AREA 10,453 TOTAL AFFECTED TENANT AREA
SEATING COUNT:	335 PROPOSED 294 EXISTING

## OCCUPANCY

OCCUPANT LOAD: 386 (BASED ON TOTAL DESIGN LOAD, NOT SEATING COUNT)

NO. EXITS REQUIRED / PROVIDED: 3 (REQUIRED)  
4 (PROVIDED; INCLUDES KITCHEN EXIT)

MAX. ALLOWABLE TRAVEL  
DISTANCE TO NEAREST EXIT: 250 FT.

EGRESS WIDTH REQUIRED / PROVIDED: SEE LIFE SAFETY PLAN, SHEET A101

### PLUMBING FIXTURE REQUIREMENTS




GROUP F: WINE STORAGE	085F	GROUP A-2: RESTROOM HALL	4065F	MENS	2105F
BAR	2485F	BAR SEATING	5695F	WOMENS	2465F
KITCHEN	2,1445F	PRIVATE DINING	8635F	ENTRY	3295F
TOTAL	2,4085F	OUTDOOR DINING	7345F	DINING	1,5285F
	/200	TOTAL	4,885 5F		/30
12 OCCUPANTS			163 OCCUPANTS		

OCCUPANTS SERVED: 176 PERSONS (88 MALE / 88 FEMALE) - PER 2013 CPC CH. 4, TABLE 442.1  
[BSC, DSA-SS & DSA-SS/CC] OCCUPANT LOAD FACTOR TABLE A

FIXTURES	MALE		FEMALE		UNISEX	
	REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED
WATER CLOSETS	2	2	3	3	N/A	2
URINALS	1	2	N/A	N/A	N/A	N/A
LAVATORIES	1	2	1	2	N/A	2
DRINKING FOUNTAINS	N/A	N/A	N/A	N/A	N/A	N/A
SERVICE SINK	1 REQUIRED, 1 PROVIDED					

## SEAT COUNT

AREA	EXISTING	PROPOSED
TOTAL RESTAURANT SEATING	234	335

	<p><b><i>Fleming's</i></b></p> <p>PRIME STEAKHOUSE</p>	<p><b>ISSUED / REVISED / DATE</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>																														
<p>   <b>JACOB R. BUSH</b>          E 519147          12-3-2017       </p>	<p>   <b>ceso</b>          California Engineering Seal of Office          1305 W. Washington Blvd., Suite 200          San Jose, CA 95128          Tel: 408.297.0000          Fax: 408.297.0001          Email: info@cesocalifornia.com          Website: www.cesocalifornia.com       </p>	<p> <b>SANTA CLARA SQUARE</b>  <b>2762 AUGUSTINE AVE., SUITE 110</b>  <b>SANTA CLARA, CA 95054</b>          PROJECT # 732377-01       </p>																														
<p> <b>DATE</b>          11/27/2019  <b>ISSUE</b>          11/27/2019  <b>STORE NO.</b>          1553  <b>DRAWN BY:</b>          JT  <b>CHECKED BY:</b>          BB  <b>SHEET NUMBER</b>  <b>A000</b>  <b>COVER SHEET</b> </p>																																

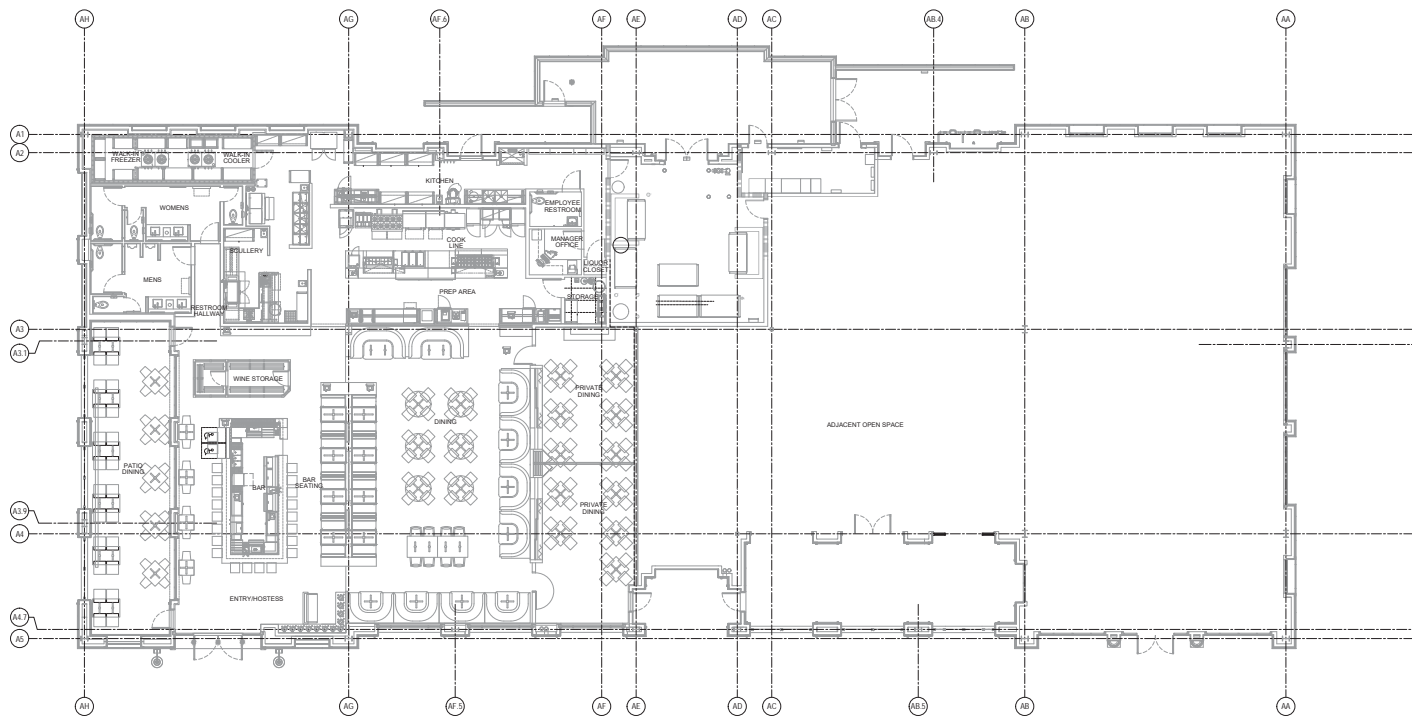






## A001

THESE DRAWINGS AND SPECIFICATIONS REMAIN THE PROPERTY OF THE DESIGN PROFESSIONAL. AUTHORIZED COPIES OF THESE DRAWINGS AND SPECIFICATIONS RETAINED BY THE CLIENT MAY BE UTILIZED ONLY FOR THEIR USE AND FOR OCCUPYING THE PROJECT FOR WHICH THEY WERE PREPARED, AND NOT FOR THE CONSTRUCTION OF ANY OTHER PROJECT. UNAUTHORIZED USE OF THESE DRAWINGS IS STRICTLY PROHIBITED.



01 EXISTING FLOOR PLAN  
SCALE: 1/8"=1'-0"



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**Fleming's**  
PRIME STEAKHOUSE

ISSUED / REVISED / DATE

DPM: JH

STORE NO: 1553

ISSUE DATE: 11/21/2019

SHEET NUMBER

A002  
EXISTING FLOOR PLAN

SANTA CLARA SQUARE  
2762 AUGUSTINE AVE., SUITE 110  
SANTA CLARA, CA 95054  
2018 EXPANSION  
PROJECT # 75377-01  
AUP & CUP PLANNING SUBMITTAL

**ceso**  
ARCHITECT & INTERIOR DESIGN  
1000 W. BARTON AVENUE, SUITE 100  
SANTA CLARA, CA 95050  
TEL: 408.298.1234  
WWW.CESODEN.COM

J. J. JONES  
JULY 9, 2008  
C-27547  
12-13-2019







# EXTERIOR ELEVATION GENERAL NOTES

- SIGNAGE INDICATED ON THIS SHEET IS FOR GENERAL LOCATION/REFERENCE ONLY. REFER TO APPROVED SIGN DRAWING BY SIGNAGE CONTRACTOR FOR PERMITTED SIGN DIMENSIONS AND CONTENT. SEPARATE PERMITS ARE REQUIRED FOR SIGNAGE INSTALLATION. ALL SIGN WORK SHALL BE BY SIGN CONTRACTOR.
- ELECTRICAL CONTRACTOR TO SUPPLY REQUIRED POWER TO SIGNS. SIGN CONTRACTOR TO MAKE FINAL CONNECTION. COORDINATE WITH SIGN CONTRACTOR.

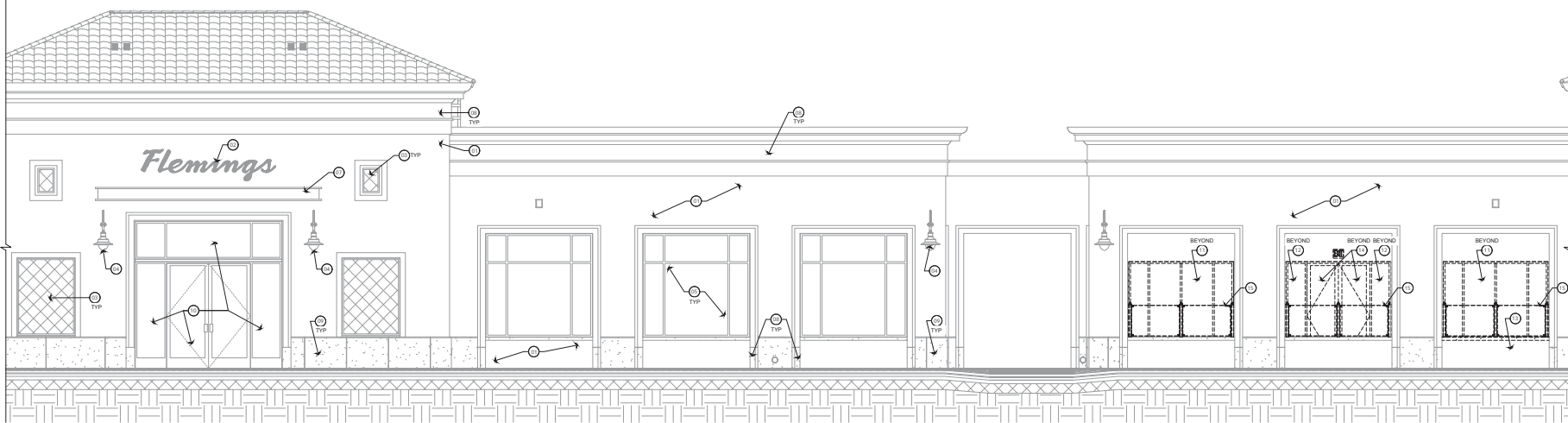
# EXTERIOR ELEVATION KEYNOTES

- EXISTING EXTERIOR WALL FINISH TO REMAIN (TYPICAL). PROTECT DURING CONSTRUCTION.
- EXISTING SIGNAGE TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING DECORATIVE METAL LATTICE TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING WALL SOUNCE TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING STOREFRONT WINDOWS TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING PATIO WINDSCREEN TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING BLAZE CANOPY. PROTECT DURING CONSTRUCTION.
- EXISTING CORNICE AND WALL TRIM TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING GFRIC WAINSCOT TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING STOREFRONT DOORS, SIDELIGHTS, AND TRANSOM TO REMAIN. PROTECT DURING CONSTRUCTION.
- EXISTING WINDOWS TO BE REMOVED.
- EXISTING SIDELIGHTS TO BE REMOVED.
- EXISTING PATIO LOW WALLS TO BE REMOVED.
- EXISTING DOOR TO BE REMOVED.
- EXISTING PATIO WINDSCREEN TO BE REMOVED. PREP OPENING TO RECEIVE NEW WINDOW.
- NEW ALUMINUM STOREFRONT WINDOWS.
- NEW ALUMINUM STOREFRONT DOORS AND SIDELIGHTS BY LANDLORD.



02 FRONT EXTERIOR PROPOSED ELEVATION

SCALE: 1/4"=1'-0"



01 DEMO FRONT EXTERIOR ELEVATION

SCALE: 1/4"=1'-0"



SANTA CLARA SQUARE  
2762 AUGUSTINE AVE., SUITE 110  
SANTA CLARA, CA 95054  
2018 EXPANSION  
PROJECT # 75377-01  
AUP & CUP PLANNING SUBMITTAL



ISSUED / REVISED / DATE		

DATE: 11/27/2019	DRAWN BY: JT
ISSUED BY: 08	CHECKED BY: 08
SHEET NUMBER	

A004  
EXTERIOR ELEVATIONS

RESOLUTION NO \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF SANTA CLARA, CALIFORNIA, APPROVING A USE  
PERMIT AMENDMENT TO ALLOW ON-SITE SALE OF  
ALCOHOL (ABC LICENSE TYPE 47) IN A RESTAURANT  
EXPANSION LOCATED AT 2762 AUGUSTINE DRIVE, SANTA  
CLARA, CA**

PLN2019-14274 (Use Permit)

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS  
FOLLOWS:**

**WHEREAS**, on December 26, 2019, Fleming's Prime Steakhouse, ("Applicant") applied for a Use Permit to allow on-site sale and service of alcohol (ABC License Type 47) within a new 3,078 square foot expansion to the existing 7,375 square-foot restaurant, located at 2762 Augustine Drive, within the multi-tenant Santa Clara Square ("Site Location");

**WHEREAS**, the Site Location is zoned Planned Development (PD) and has the General Plan land use designation of Regional Mixed Use;

**WHEREAS**, the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*, requires a public agency to evaluate the environmental impacts of a proposed project. The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301, Class 1 Existing Facilities, in that the proposed use will occur at an existing location involving negligible or no expansion of an existing use;

**WHEREAS**, the Use Permit process enables a municipality to exercise control over the extent of certain uses, which, although desirable in limited numbers and specific locations, could have a detrimental effect on the community in specific instances;

**WHEREAS**, in order to implement the proposed activity, the Site Location requires a Use Permit to allow alcohol sale and service in conjunction with food service within the 3,078 square-foot restaurant expansion occupying a commercial tenant space in Santa Clara Square, as shown on the Development Plans;

**WHEREAS**, the applicant previously received approval of a Use Permit to allow alcohol sale and service in conjunction with the existing 7,375 square-foot restaurant that occupies a commercial tenant space in Santa Clara Square in 2016 (PLN2016-11970).

**WHEREAS**, pursuant to SCCC Section 18.110.040, the Planning Commission cannot grant a Use Permit without first making specific findings related to the effect of the project on health, safety, peace, comfort, and general welfare;

**WHEREAS**, on February 13, 2020, the notice of public hearing for the February 26, 2020 meeting date for this item was posted in three conspicuous locations within 300 feet of the Site Location and mailed to all property owners located within 300 feet of the Site Location; and

**WHEREAS**, on February 26, 2020, the Planning Commission conducted a public hearing, at which all interested persons were given an opportunity to present evidence and give testimony, both in support of and in opposition to the proposed Use Permit Amendment.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the Planning Commission hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.
2. That the Planning Commission hereby finds that approving a Use Permit to allow sale and service of alcohol (ABC License Type 47) in 3,078 square foot expansion to the existing 7,375 square-foot restaurant with 335 seats is consistent with the commercial uses contemplated in Santa Clara Square.
3. That the Planning Commission hereby finds as follows:
  - A. The establishment or operation of the use or building applied for, under the circumstances of the particular case, are essential or desirable to the public convenience or welfare in that the proposal would serve to expand the options available to local and regional customers by allowing the sale and service of alcohol with restaurant dining in the expanded

area of an existing restaurant within an established shopping center to meet the interests of local customers and residents from the greater region;

B. Said use will not be detrimental to any of the following:

1) The health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, in that the proposal provides a restaurant that serves alcohol in conjunction with food in an existing and proposed new commercial tenant space within an established shopping center which meets all City of Santa Clara codes and regulations; the restaurant will be managed and maintained, and will comply with any and all City and state laws regarding the sale of alcoholic beverages;

2) The property or improvements in the neighborhood of such proposed use, in that the proposed use will occur in an existing and proposed expanded retail tenant space, and on-site parking is sufficient and available to service the proposed use and the existing businesses;

3) The general welfare of the City, in that the proposed use expands the options available to the local and regional population by providing a full-service dining experience to support businesses and residents in the vicinity of the project site;

C. That said use will not impair the integrity and character of the zoning district, in that the proposal is designed and conditioned in a manner to be compatible with adjacent commercial and residential development, on a developed parcel, with adequate parking, and properly designed ingress and egress points; and,

D. That said use is in keeping with the purposes and intent of the Zoning Code, in that a restaurant that serves alcohol in conjunction with food, may be conditionally permitted when the use would not be objectionable or detrimental to the adjacent properties in this Planned Development zoning district.

4. That the Planning Commission hereby approves Use Permit Amendment PLN2019-14274 to allow on-site sale and service of alcohol (ABC License Type 47) in a 3,078 square foot

expansion to the existing 7,375 square-foot restaurant, located at 2762 Augustine Drive, subject to the Conditions of Approval, attached hereto and incorporated herein by this reference.

5. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 26TH DAY OF FEBRUARY 2020, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Development Plans
2. Conditions of Approval

## **Conditions of Approval**

### **GENERAL**

- G1. Developer agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, attorneys' fees, injuries, costs, and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against the City by reason of its approval of developer's project.
- G2. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.

### **COMMUNITY DEVELOPMENT**

- C1. Obtain required permits and inspections from the Building Official and comply with all building code requirements and conditions thereof.
- C2. The project shall comply with all California Department of Alcoholic Beverage Control licensing requirements.
- C3. The Director of Community Development may refer the Use Permit to the Planning Commission at any time to consider the initiation of revocation proceedings if the conditions of approval are violated or the operation is inconsistent with the approved project description. In addition, if complaints are received by the City with respect to this use, staff shall provide a review of the Use Permit to the Planning Commission within three months for consideration of revocation proceedings.
- C4. Full menu food service shall be available during all hours that the restaurant is open and alcoholic beverages are served.
- C5. The hours of operation shall be limited to 11 a.m. to 11 p.m. Monday through Saturday and from 10 a.m. to 11 p.m. on Sunday.
- C6. On-site consumption of alcohol shall be limited to within the restaurant and enclosed patio area.
- C7. The Planning Commission shall review this Use Permit PLN2019-14274 twelve (12) months from the date that applicant obtains an active Alcoholic Beverage Control (ABC) License Type 47. After six months from obtaining the ABC license, the City shall conduct an administrative review of any ABC violations and police service calls and shall report any significant occurrences to the Planning Commission.
- C8. Applicant is responsible for collection and pick-up of all trash and debris on-site and adjacent public right-of-way.

### **ENGINEERING**

- E1. Obtain site clearance through Engineering Department prior to issuance of Building Permit. Site clearance will require payment of applicable development fees. Other requirements may be identified for compliance during the site clearance process. Contact Engineering Department at (408) 615-3000 for further information.
- E2. All work within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors shall be included within a Single Encroachment Permit issued by the City Engineering Department. Issuance of the Encroachment Permit and payment of all

appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.

**POLICE**

- PD1. Applicant shall contact the Santa Clara Police Department 'Intelligence' unit (408-615-4849) for Alcohol Beverage Control (ABC) licensing review.
- PD2. The business shall undergo a 6 month and 1 year review, including a check for ABC violations and police service calls.

**WATER AND SEWER UTILITIES**

- W1. All food service projects conducting commercial cooking operations including dishwashing activities and equipment cleaning that generate grease-laden wastewater are subject to review from the Water and Sewer Utilities Department, for FOG Control and grease interceptor installation requirements. All food service projects are required to have an approved stamp from the Santa Clara County Department of Environmental Health before plans can be accepted for review. Contact Compliance Division of the Water and Sewer Utilities at (408) 615-2002 for a Food Service Checklist to initiate the process.



December 17, 2019

Yen Chen  
City of Santa Clara  
1500 Warburton Ave  
Santa Clara, CA 95050

RE: Statement of Justification for the Expansion of the existing Fleming's Prime Steakhouse  
Located at: 2762 Augustine Drive, Suite 120, Santa Clara, CA 91101

Dear Mr. Chen,

Thank you for your consideration of our application for amending our existing CUP to allow for the on-site sale and consumption of alcoholic beverages (beer, wine, and spirits) in conjunction with the operation of our fine dining restaurant to the expansion area proposed for the existing Fleming's Prime Steakhouse restaurant. Fleming's Prime Steakhouse is a full-service fine dining restaurant. We offer full dining service in our main dining room, private dining rooms, bar, and patio area. We have 66 locations nationwide as well as one location in Brazil. We are owned and operated by Bloomin' Brands, Inc., based in Tampa, FL, which also operates Outback Steakhouse, Carrabba's Italian Grill, and Bonefish Grill. Fleming's has been in operation since 1999, starting with our first location in Newport Beach, CA. Our goal was to create an attractive fine dining establishment serving the best quality steaks and top wines to our patrons. Fleming's has built a well-known reputation for providing the same prestigious dining experience to our patrons throughout the U.S. We strive to provide a consistent, high-end dining experience for our guest every night, no matter which of our locations they visit.

The existing Fleming's in Santa Clara has been open for a little over 2 years and is continuing to grow each year. In effort to keep up with our patrons' demand and to continue to provide exceptional service, Fleming's is proposing to take over the vacant adjacent space to expand the existing restaurant to accommodate our guests. We are proposing to add new seating areas, private dining room, a server station, and additional restrooms. In the spirit of consistency in maintaining this superior level of service, we would like to make a formal request to amend the existing CUP to allow the same level of service in our existing restaurant to expand into this new area for serving alcoholic beverages for onsite consumption to our dining patrons until food service has ended as part of our dinner service.

**Hours of Operation:**

Mon-Sat: 11am to 11pm

Sun: 10am to 11pm (Sunday Brunch)







We thank you for your time and consideration and look forward working with you on our newly proposed expansion. Feel free to contact me directly at (813) 830-4171 if you have any questions or concerns.

Sincerely,

Stacy Miller  
Sr. Site Development Manager



Pg. 2 of 2



## Agenda Report

20-242

Agenda Date: 2/26/2020

### REPORT TO PLANNING COMMISSION

#### SUBJECT

Consent: Responses to Questions from the January 29, 2020 Housing Presentation

#### EXECUTIVE SUMMARY

At the January 29, 2020 Planning Commission meeting, Assistant City Attorney Alexander Abbe gave a presentation to the Commission on 2019 housing legislation. This report responds to the specific questions raised by the Commissioners at the January 29 meeting. This memorandum is not intended to be a complete summary of all of the legislation discussed.

Topic	Commissioner	Question	Short Answer
ADUs	Jain	Can the City still limit ADU size based on the size of the main house?	Yes, but only if it is still possible to build an ADU $\geq$ 800 sf
ADUs	Ikezi	Can HOAs prohibit ADUs?	In single-family zones, no. In multi-family zones, yes.
SB 330 Streamlining	Cherukuru	Does SB 330 apply to all housing developments, or just affordable housing?	With a few minor exceptions, SB 330 applies to all housing developments
SB 330 Streamlining	Jain	Can the City still create ECR "activity zones," given SB 330's prohibition on down-zoning of residential land?	Yes, the City can still down-zone a site if it concurrently up-zones another site by the same amount.
Density Bonuses	Jain	For student housing density bonuses, what qualifies as "student" housing?	All housing units must be used exclusively by full-time university students. An operating agreement or lease with a university is required.
Supportive Housing & Low Barrier Nav. Centers	Jain	Would the legislation on supportive housing & LBNCs allow for "tiny homes" by right?	Yes, potentially; especially for LBNCs. For supportive housing, some City Code revisions may be necessary
Surplus Lands Act	Ikezi	Under the Surplus Lands Act, can the City ever sell surplus land for non-residential development?	Only in limited cases. The City must first negotiate in good faith with housing developers.
Rent Limits, AB 1482 & 1110	Biagini	Could a landlord avoid the rent limits of AB 1482 by changing a lease to month-to-month status?	No, AB 1482 applies whenever a tenant has been in a unit for $\geq$ 12 months, even if month-to-month.

Safe Parking, AB 881	Ikezi	What is the status of the proposed "safe parking" legislation?	Governor Newsom vetoed the bill on October 12, 2019.
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## **DISCUSSION**

### **Accessory Dwelling Units - AB 881**

Much of the January 29 presentation concerned new restrictions on local authority to regulate Accessory Dwelling Units (ADUs), the bulk of which appeared in Assembly Bill (AB) 881. Among other things, the new law requires the City to allow for two ADUs per lot, depending on the size of the ADUs; requires the City to permit 4-foot setbacks and at least a 16 foot height for ADUs; and prohibits the City from requiring replacement parking when an existing residence eliminates parking spaces to create an ADU.

Commissioner Jain recalled that in our existing ordinance, there is a requirement that the ADU be related to the main house size. (Specifically, SCCC §§ 18.10.030(d)(6) and 18.12.030(d)(6) provide that an attached ADU may not exceed 50% of the existing living area of the main dwelling, with a maximum of 1200 square feet.) **Commissioner Jain asked whether this regulation was still permissible.**

Under the revised state statute, the City can impose a maximum size of not less than 850 square feet for zero- and one-bedroom ADUs, and 1000 square feet for ADUs with at least two bedrooms. In addition, the City cannot impose development standards that, when considered together, would make it infeasible to develop an ADU of at least 800 square feet:

“[A] local agency shall not establish by ordinance any of the following: . . .

“(C) Any other minimum or maximum size for an accessory dwelling unit, ***size based upon a percentage of the proposed or existing primary dwelling***, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings ***that does not permit at least an 800 square foot accessory dwelling unit*** that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”

Gov’t Code § 65852.2(c)(2)(2020) (emphasis added). Accordingly, the City could potentially still have a 50% limitation for attached ADUs, but only if they would still allow for an ADU of at least 800 square feet, when considering the impact of all development standards.

### **Commissioner Ikezi then asked whether Homeowners Associations (HOAs) could prohibit construction of ADUs.**

The answer is no, for property that is zoned single-family residential. Under AB 670, a new section was added to the Davis-Stirling Act, that expressly provides that “[a]ny covenant, restriction, or condition . . . that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use . . . is void and unenforceable.” Civ. Code § 4751. Accordingly, a homeowner’s association that

governs a single-family neighborhood would not be able to prohibit ADUs.

A condominium association, however, is not currently limited in this way, and could continue to prohibit ADUs in a condo or townhouse development. The statute does not apply in the case of multi-family zoning. If, however, a condo or townhouse development decides to allow ADUs, note that the City no longer has discretion to disallow such ADUs. A new provision in the law provides that cities must allow at least one ADU within existing multifamily dwellings, and must allow up to 25% of the existing multifamily dwelling units. § 65852.2(e)(1)(C). So for a townhouse development, the City would potentially have to allow up to 25% of the garages to be filled with ADUs. But again, this only applies if the condo association consents to such development.

### Housing Crisis Act - SB 330

Senate Bill (SB) 330 introduced a significant number of new “streamlining” provisions that will affect how residential development applications are processed. Much of the bill concerned a new “pre-application” process for development projects, pursuant to which a housing developer can submit a limited amount of information about a proposed project, and restricts the City’s authority to request additional data. Once a housing developer has submitted all of the required information for a “pre-application,” the City’s fees and development standards are locked in for that project. Previously, the City’s development standards would be locked in as of the date the full application was deemed complete. The bill impose a number of other streamlining obligations, described in more detail below.

### **Commissioner Cherukuru asked whether SB 330 applies only to affordable housing developments, or all housing developments, including market-rate housing.**

For the most part, the law applies to all housing developments, not just affordable housing projects. The bill is broken down as follows:

- Sections 1 and 2 contain recitals.
- Section 3 of the bill amends the Housing Accountability Act (HAA).
- Sections 4 through 5 amend the Planning and Zoning Law (PZL).
- Sections 6 through 12 of the bill amend the Permit Streamlining Act (PSA).
- Section 13 of the bill adds a new chapter to the Government Code called the Housing Crisis Act (HCA).

All of the laws listed above apply to all types of housing developments, not just affordable developments. The HAA and PSA contain a few provisions that are specific to affordable development, however. The following is a description of each of the four laws, how SB 330 revised them, and what provisions of the HAA and PSA are unique to affordable housing. If this level of detail does not interest you, feel free to skip to the next section.

The Housing Accountability Act (HAA) limits the City’s authority to disapprove or condition housing development applications. For all development projects, both affordable and market-rate, if the project is consistent with the City’s General Plan, then the City cannot disapprove the project, or impose conditions that reduce the project’s density, unless the City makes findings that the project would have a specific, adverse impact on public health or safety. § 65589.5(j)(1). For affordable housing developments, the City also cannot impose conditions, beyond generally applicable objective

design standards, that would make the affordable project infeasible. § 65589.5(d). The HAA imposes penalties and judicial remedies on cities that fail to comply. In 2018, the Legislature expanded the HAA so that it applies even when a proposed project is inconsistent with the Zoning Ordinance, as long as it is consistent with the General Plan. § 65589.5(j)(4).

SB 330 modified the HAA by locking in development standards at the time of a complete pre-application, rather than the time of a complete application. The City cannot impose conditions on a housing project, beyond the development standards that were in place at the time of the pre-application, without making the onerous health & safety findings discussed above. § 65589.5(o)(1).

SB 330 also modified two sections of the Planning and Zoning Law (PZL), the comprehensive statute on land use regulation in cities. The first change was to place a limit on the number of hearings for housing projects; under SB 330, if a residential development application complies with both the General Plan and Zoning Ordinance, the City cannot conduct more than five public hearings, including Planning Commission hearings, City Council hearings, continuances, and appeals. § 65905.5(a). The other change was to accelerate the timeline for making a determination about a property's historic significance, for housing development projects. As revised, the PZL now mandates that the City make a determination as to a property's historic significance at the time the City determines a pre-application is complete. Both of these new PZL requirements apply broadly to "housing development projects," which include both affordable and market-rate housing. §§ 65905.5(b)(3), 65913.10(b)(2).

Next, SB 330 revised the Permit Streamlining Act (PSA), which is the law that imposes time limits on which the City must approve or disapprove certain kinds of development applications. The bulk of the changes related to creating the new "pre-application" process for housing development projects, including listing the permissible types of information the City can request in this process (data on the project site, the existing uses, a site plan, the proposed land uses, the number of parking spaces, any proposed pollutants, any known endangered species, and a few other categories). § 65941.1(a). As with the other statutes, "housing development projects" are defined to include both market-rate and affordable housing. § 65950(c).

SB 330 also shortened the timeframe under the PSA for making a decision on whether to approve a housing development project; under prior law, the City had 120 days following the certification of an Environmental Impact Report (EIR) for market-rate housing, or 90 days for certain kinds of affordable developments. Under SB 330, the City now has only 90 days following the certification of an EIR for market-rate housing, or 60 days for certain affordable developments. § 65950(a)(2).

Finally, SB 330 added a new chapter to the Government Code called the Housing Crisis Act of 2019 (HCA). The HCA imposes a citywide prohibition on down-zoning of any residential properties below the density that was allowed more than two years ago, on January 1, 2018. The prohibition on down-zoning applies to proposed reductions in densities, height, floor area ratios, or increases in requirements on setbacks, lot size, lot coverage, frontage, or anything else "that would lessen the intensity of housing." § 66300(b)(1)(A). (There is a limited exception to the prohibition, described under Commissioner Jain's question below.)

The HCA also prohibits enforcing design standards established on or after January 1, 2020, that are not objective design standards. § 66300(b)(1)(C). Residential developers who demolish existing

dwelling is obligated to replace those dwellings as part of the new development, and if any of the demolished units were “protected” (income-restricted), the developer must replace them with an equal number of protected units. § 66300(d). As with the other laws, the HCA defines “housing development project” to include both market-rate and affordable housing. § 66300(a)(6).

Most of the provision of SB 330 contain a “sunset clause,” meaning that many of its provisions will automatically expire, on January 1, 2025.

**Commissioner Jain asked whether the City could still create planned “activity zones” on El Camino Real, if the existing zoning allows for residential development, or whether this would violate SB 330’s prohibition on down-zoning.**

The City could potentially change the zoning of a residential zoning to a non-residential zoning, but only if simultaneously up-zones another piece of property.

Under SB 330, changing the residential zoning of a property to a non-residential zoning would “lessen the intensity of housing,” and so the City could not legally approve such a rezone without an exception. § 66300(b)(1). The bill contains such an exception, in that the City can designate another site in the City where it will increase the permissible residential density by the same amount that the density was decreased on the first site. § 66300(i)(1). A similar provision already existed in state law, but it had only applied to sites designated for potential future housing development as part of the RHNA inventory in the housing element, and the City had 180 days to “up-zone” the replacement site. § 65863(c)(2). Under SB 330, this requirement applies to all residential parcels citywide, and any upzoning must be concurrent with the development project. The City could, theoretically, utilize this exception to change a residential parcel to a non-residential designation on El Camino Real, provided that it identified and concurrently upzoned another site to replace the loss in residential capacity.

Without the use of this exception, the City could only rezone residential sites along El Camino for commercial and other non-residential uses if the rezoning was to a mixed-use designation that still allowed for the same amount of residential uses.

### Density Bonuses - AB 1763

AB 1763 created a new, “super” density bonus for 100% affordable housing developments. Such projects are entitled to an 80% density bonus, if located more than a half-mile from public transit, or unlimited density, if located within a half-mile from public transit.

During the discussion on AB 1763, Commissioner Jain asked about the density bonus under existing state law for “student housing”. (That law gives housing developers a 35% density bonus when at least 20% of units or beds are restricted to lower-income students for at least 55 years.)

**Commissioner Jain asked what provisions there are in the law to ensure that the housing will, in fact, be used by students.**

The statute provides that all student housing units must be used exclusively for students enrolled full time at an accredited institution of higher education. In order to qualify for the density bonus, the developer must provide the City with a copy of an operating agreement or master lease with one or more institutions of higher education for the institution(s) to occupy all units of the student housing

development with students from that institution(s). The “institution of higher education,” in turn, must be accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. § 65915(b)(1)(F).

### SB 744 & AB 101 - Low Barrier Navigation Centers & Supportive Housing

SB 744 and AB 101 addressed housing issues faced by unsheltered persons. SB 744 modified the laws on supportive housing, which provide for by-right housing in mixed-use and multifamily zones for unsheltered persons. In order to qualify as “supportive housing,” the housing must be linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. § 65651. SB 744 modified the law by creating new exemptions from CEQA review for supportive housing developments of 50 units or less, or for conversions from existing hotels, or for developments funded by the “No Place Like Home” state fund.

AB 101 created a new type of by-right housing, “Low Barrier Navigation Centers” (“LBNCs”), for certain mixed-use and nonresidential zones, and exempted such housing from CEQA review. LBNCs are intended to provide amenities to unsheltered persons that would not be available in a homeless shelter, such as more private settings, places to store possessions, the ability to keep pets, and the ability to stay with partners. In order to qualify as a LBNC, the housing has to meet certain requirements including supportive services, a coordinated entry system, and a system for entering client data into the state Homeless Management Information System. § 65660 et seq.

### **Commissioner Jain asked whether these bills would allow for by-right development of “tiny homes” or other similar small, detached single-family dwellings.**

For supportive housing, § 65651(b)(1) requires that the City apply the same standards to supportive housing as to other multifamily developments within the same zone. The City’s multifamily zones allow for “dwelling groups,” SCCC § 18.20.030(c), but City Code restrictions on numbers of dwelling units on multifamily lots, as well as development standards (setbacks, lot coverage) that are not designed to accommodate tiny homes, may limit their feasibility.

For LBNCs, however, the legislation does not appear to contain any limitations about the physical setup of the LBNCs, so a series of tiny homes could theoretically fit this definition, if they provided the requisite services to qualify as an LBNC. Given that LBNCs are only allowable in mixed-use and nonresidential zones, the more relaxed development standards in commercial or industrial areas may help to facilitate such developments.

### Surplus Lands - AB 1486

AB 1486 expanded Surplus Land Act requirements for local governments. As revised, the Surplus Lands Act now requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports, and requires the state Department of Housing and Community Development (HCD) to establish a database of surplus lands. Until recently, charter cities such as Santa Clara were believed to be exempt from the reach of the Surplus Lands Act. However, a December 2019 court of appeal case, *Anderson v. City of San Jose*, established that the Surplus Lands Act applies to charter cities.

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**Commissioner Ikezi asked whether the Surplus Lands Act would now preclude the City from ever selling or leasing its surplus property for a non-residential development.**

Under the Surplus Lands Act, before the City could sell or lease property to a developer for non-residential purposes, the City would first have to notify a large number of public entities, affordable housing developers, open-space districts, school districts, and similar entities. If any of those parties indicate, within 60 days, that they are interested in acquiring the property, then the City must negotiate in good faith with them for at least 90 days to sell or lease the property to them for fair market value.

In theory, if these good faith negotiations fail to result in a transfer of the property, the City is then free to dispose of the property in any manner, including through the sale to a non-residential developer. The bill imposes numerous conditions on the “good faith negotiations,” however, starting with a requirement that the City cannot disallow residential use of the site as a condition to the sale or the lease. Consequently, if the City declined to sell to an affordable housing developer after such negotiations, and then later sold the property to a non-residential developer, this could constitute bad faith. In such a circumstance, there would be severe penalties for failing to comply with the statute. Specifically, a disappointed housing developer can sue the City and recover 30% of the sale price of the property, for a first violation, and 50% for subsequent violations.

Consequently, the legislation will place significant limits on the City’s ability to sell or lease surplus land to a non-residential developer.

**Tenant Protections - AB 1482 & AB 1110**

AB 1482 and AB 1110 created new protections for rental tenants. AB 1482, applicable to tenancies of 12 months or more, prohibited annual rent increases of more than 5% plus the area consumer price index (CPI), or 10%, whichever is less. AB 1110, applicable to shorter tenancies, required a minimum 90 day notice prior to increasing rent by more than 10%.

Commissioner Biagini asked about the interplay of these two laws. **If AB 1110 only applies to month-to-month rentals, what is to prevent a landlord from waiting for a twelve-month lease to expire, allowing the lease to convert to month-to-month status, and then increasing the rent more than 10%?**

The hypothetical situation Commissioner Biagini described could not arise, because the bills are tied to how long the tenant has stayed in a unit, not how long the lease is. A landlord could not utilize AB 1110 on a tenant who had been in a dwelling for more than 12 months. Once a tenant has been in place for that long, the protections of AB 1482 apply, even if the lease has converted to month-to-month. The protection applies to the length of time a tenant has been in place, not the length of the lease itself. Civ. Code § 1947.12.

**Safe Parking - AB 891**

At the end of the presentation, Commissioner Ikezi asked for an update on the “safe parking” legislation, AB 891, which would have required certain public entities to provide safe parking locations and options for individuals and families living in their vehicles. The bill would have required



the provision of safe parking locations with bathroom facilities and onsite security, among other requirements. The bill only applied to large cities and counties, with a population greater than 330,000, but a county could partner with a city in its jurisdiction to provide the safe parking zone.

Although both the California Assembly and Senate ultimately voted to approve AB 891, Governor Newsom vetoed the bill on October 12, 2019.

**RECOMMENDATION**

Note and file this report.

Prepared by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager



## Agenda Report

20-87

Agenda Date: 2/26/2020

### REPORT TO PLANNING COMMISSION

#### **SUBJECT**

Public Hearing: Action on a Variance to the lot coverage and covered parking requirements associated with an addition at 655 Jefferson Street

#### **REPORT IN BRIEF**

Applicant/Owner: Rob Mayer/ Wayne Machado & Susie Fernandez

General Plan: Very Low Density Residential

Zoning: Single Family Residential (R1-6L)

Site Area: 5,000 square feet

Existing Site Conditions: One-story family residence

#### **Surrounding Land Uses**

North, South and East: One- and two-story single-family houses

West: One- and two-story single-family houses across Jefferson Street

#### **BACKGROUND**

The existing single-story two-bedroom two-bathroom house was built on 1905 on a 5,000 square feet lot. The existing house is 1,414 square feet and was previously improved and now includes three-bedrooms and three-bathrooms with an attached 278 square feet one-car garage. The applicant is proposing to demolish the third bedroom and the third bathroom addition at the back of the house that has no record of the building permit. The applicant proposes to construct a new 694 square feet one-story addition to the back of the house to convert it into a four-bedroom four-bathroom house and retain the existing one-car garage, rather than add a second covered parking space as required under the Zoning Code.

The applicant requests approval of a Variance to the 40% lot coverage limit required in the R1-6L Single Family Zoning District and approval of a 43.2% lot coverage. The applicant also requests a Variance of the covered parking requirement of two vehicles in the R1-6L Single Family Zoning District in order to move forward with a proposed addition and retention of the existing one-car garage.

The project requires Planning Commission review and Architectural Committee review for the variance request. The project was referred to Historical and Landmark Commission (HLC) on January 2, 2020 as required under the Historic Preservation Ordinance (HPO) since the property is located adjacent to two Mills Act properties to the north and south of the project site (1490 Santa Clara Street and 653 Jefferson Street). The HLC reviewed the project for neighborhood compatibility and consistency with the City's Design Guidelines. HLC found that the proposed project would not adversely impact the integrity of the listed resources in the vicinity of the project site as required

under the HPO and recommended approval to the Planning Commission.

### **DISCUSSION**

The property was originally developed with a house and an attached one-car garage in 1905, predating the City's requirement for two covered parking spaces pursuant to Section 18.12.120(a) of the Santa Clara City Code (SCCC).

#### *Consistency with General Plan:*

The project site has a General Plan land use designation of Very Low Density Residential. This designation is intended for residential densities up to 10 units per acre and is typically represented in detached single-family neighborhoods. The application proposes 694 square feet addition to allow a four-bedroom four-bathroom residence with an existing attached one-car garage. Pursuant to the General Plan, an expansion to an existing house with one-car garage beyond three bedrooms or 500 square feet triggers the requirement for a covered two-car garage.

#### *Zoning Conformance:*

The proposal is subject to the parking requirements of the Zoning Code unless a variance is granted by the Planning Commission. Pursuant to Chapter 18.108 of the City's Zoning Ordinance, where practical difficulties, unnecessary hardships and effects inconsistent with the general purposes of the Zoning Code may result from the strict application of certain provisions, variances may be granted. Granting of a variance would require making the findings in SCCC Section 18.108.040, including that there are unusual conditions applying to the land or building which do not apply generally in the same district.

The subject property is narrow, measuring 40 feet in width, where properties in R1-6L zoning district are required to be at least 60 feet in width. However, the property is located in a residential neighborhood originally constructed mostly with one-story homes on narrower lots with one-car garages. Therefore, there are no unusual conditions applying to the property. Allowing one covered parking would be an exception as compared to the other single family homes in the R1-6L zone, similarly situated in the neighborhood and in the City.

The addition would result in 43.2% lot coverage whereas 40% lot coverage is the maximum allowed. There are numerous properties with lot sizes of 5,000 square feet that also must limit building to 40%. A Variance is required in order to allow 43.2% lot coverage. The subject property's lot size is five thousand (5,000) square feet, where the minimum lot area for R1-6L zoning district is six thousand (6,000) square feet. However, the property is located in a residential neighborhood with a mix of lot sizes including lots smaller than 6,000 square feet. Granting the variance for one lot amounts to a special privilege not enjoyed or available to similarly sized lots. Therefore, there are no unusual conditions applying to this property.

#### *Conclusion:*

The property is located in a residential neighborhood originally constructed with one-story homes on narrower lots with attached one-car garages. Therefore, the proposed project does not meet the purpose and intent of the Zoning Code in that there are no unusual conditions applying to the land or building that do not apply generally in the same district. Therefore, staff does not support the Variance request.

### **ENVIRONMENTAL REVIEW**

If the Planning Commission denies the variance, the proposed addition would not be subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270, which states that CEQA does not apply to projects that a public agency rejects or disapproves.

If the Planning Commission were to approve the variance, the proposed addition would be exempt from the CEQA environmental review requirements per CEQA Guidelines Section 15301(e)(1), Class 1 "Existing Facilities," as the activity consists of the minor alteration of existing public or private structures, consisting of an addition that will not result in an increase of more than 50% of the floor area of the existing structure or 2500 square feet.

### **FISCAL IMPACT**

There is no cost to the City other than administrative staff time and expense, typically covered by processing fees paid by the applicant.

### **COORDINATION**

This report was coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

The notice of public meeting for this item was posted at three locations within 300 feet of the project site and was mailed to property owners within 300 feet of the project site. No public comments have been received at the time of preparation of this report.

### **ALTERNATIVES**

1. Deny the Variance to allow an addition, with a 43.2% lot coverage and a one car covered parking space.
2. Approve the Variance to allow 694 square feet rear addition, resulting is a 4-bedroom 4-bathroom residence with an existing one-car garage and 43.2% lot coverage where 40% lot coverage is the maximum allowed and two-car covered parking is required.

### **RECOMMENDATION**

Alternative 1: Adopt a resolution denying the Variance to allow an addition, with a 43.2% lot coverage and a one car covered parking space.

Prepared by: Elaheh Kerachian, Associate Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

### **ATTACHMENTS**

1. Project Data Sheet
2. Development Plans
3. Letter of Justification
4. Resolution Denying the Variance
5. Historical and Landmark Commission Staff Report of 1/2/2020

## 1. Project Summary Data and Maps–655 Jefferson Street

### Project Data

	Existing	Proposed
<b>General Designation</b>	Very Low Density Residential	Same
<b>Zoning District</b>	Single Family Residential (R1-6L)	Single Family Residential (R1-6L)
<b>Land Use</b>	Single family Residence	Same
<b>Lot Size</b>	5,000 sf	Same
<b>Living Area</b>	1,354 sf	1,789 sf
<b>Garage</b>	278 sf	Same
<b>Porch</b>	60 sf	93 sf
<b>Gross Floor Area</b>	1,632 sf	2,160 sf
<b>Lot Coverage</b>	1,692/5,000 = 33.8 %	2,160/5,000 = 43.2 %

### Site Location and Context

#### Surrounding Land Uses:

The project site is located in a residential tract developed predominantly with one and two story single family homes having detached one-car garages.

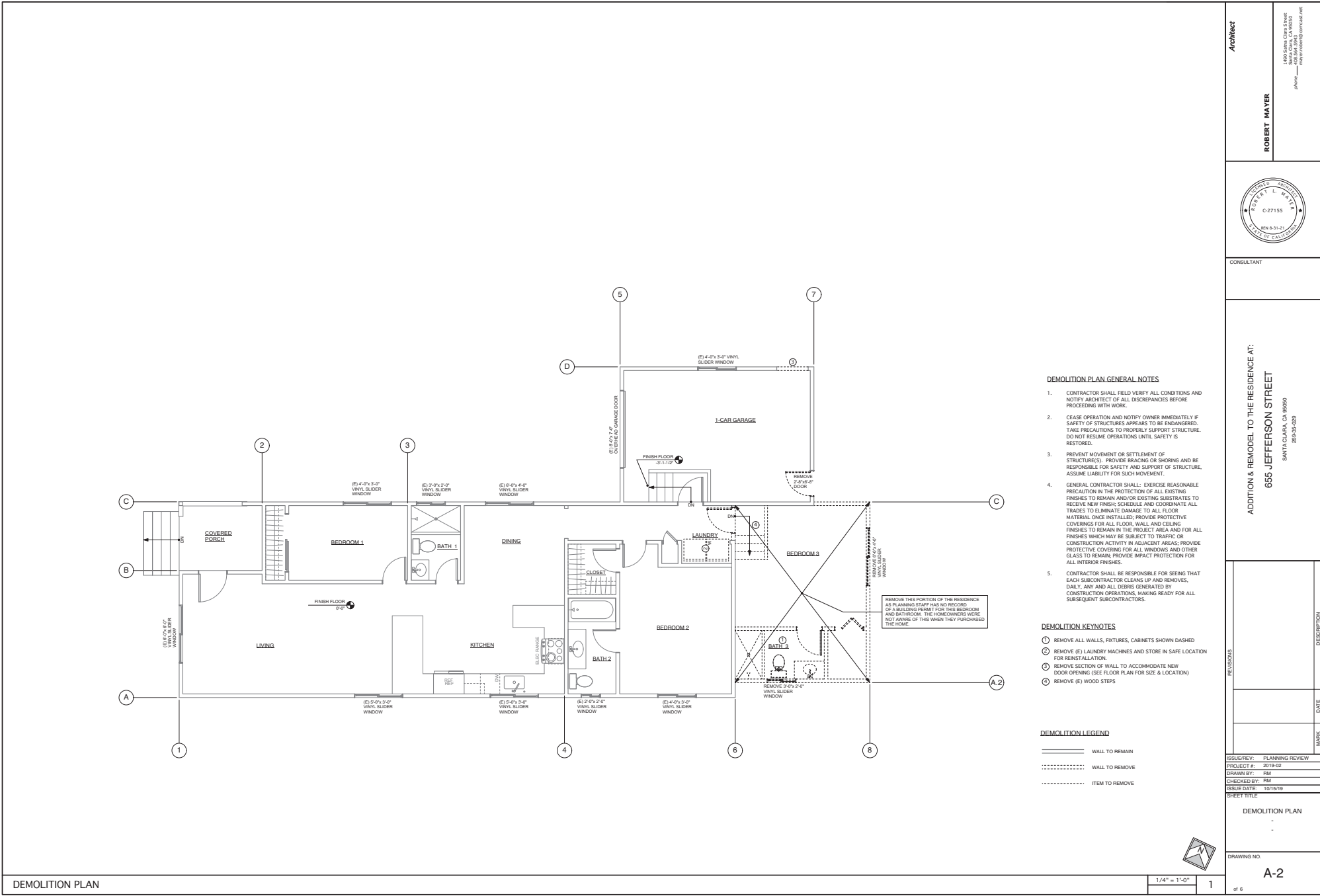
#### General Plan Map



#### Zoning Map







DEMOLITION PLAN

1/4" = 1'-0" 1 of 6

Architect

ROBERT MAYER

1490 Santa Clara Street  
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Phone: 408.281.1100  
mayer@robertmayer.com

CONSULTANT

ROBERT L. MAYER

C-27155

8-31-01

Professional Engineer

ADDITION & REMODEL TO THE RESIDENCE AT:

655 JEFFERSON STREET

SANTA CLARA, CA 95050

2019-03-02

REVISIONS	DATE	DESCRIPTION

ISSUE/REV: PLANNING REVIEW

PROJECT #: 2019-02

DRAWN BY: RM

CHECKED BY: RM

ISSUE DATE: 10/15/19

SHEET TITLE: DEMOLITION PLAN

DRAWING NO.

A-2

MARK	DATE	DESCRIPTION

REVISIONS

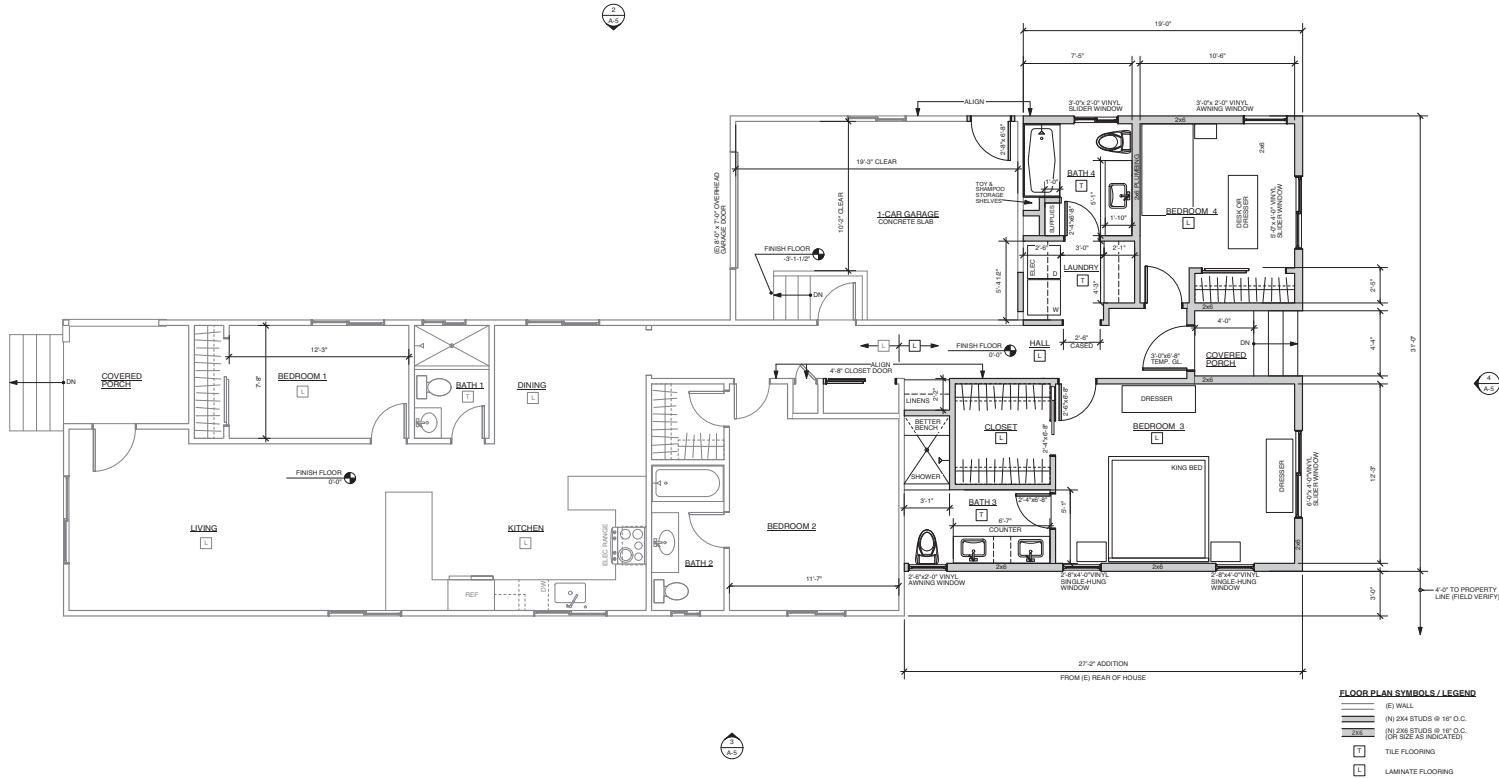
ADDITION & REMODEL TO THE RESIDENCE AT:  
655 JEFFERSON STREET  
SANTA CLARA, CA 95050  
2019-30-023

CONSULTANT



Architect

ROBERT MAYER  
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MARK	DATE	DESCRIPTION

REVISIONS

ADDITION & REMODEL TO THE RESIDENCE AT:  
655 JEFFERSON STREET  
SANTA CLARA, CA 95050  
2019-30-023

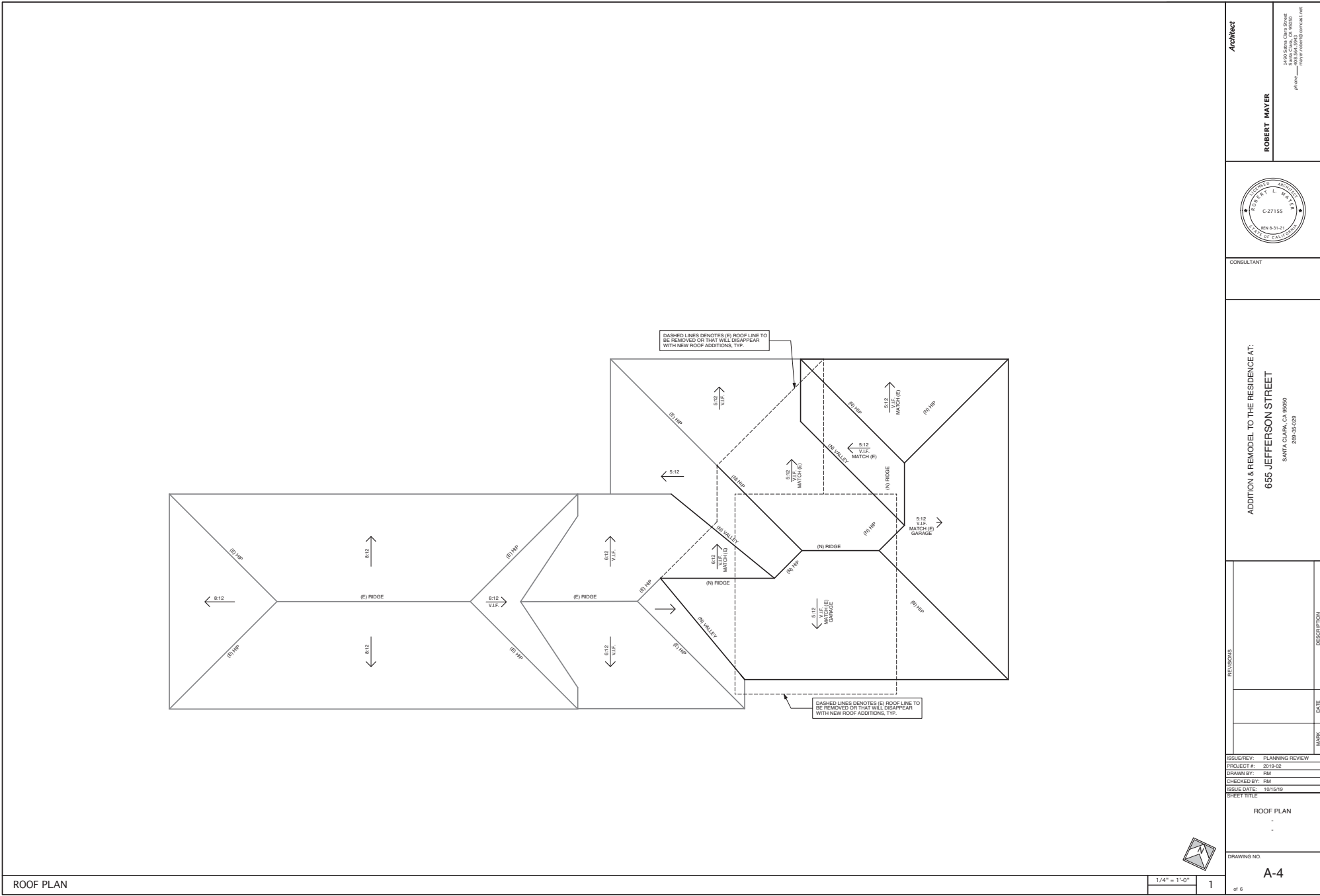
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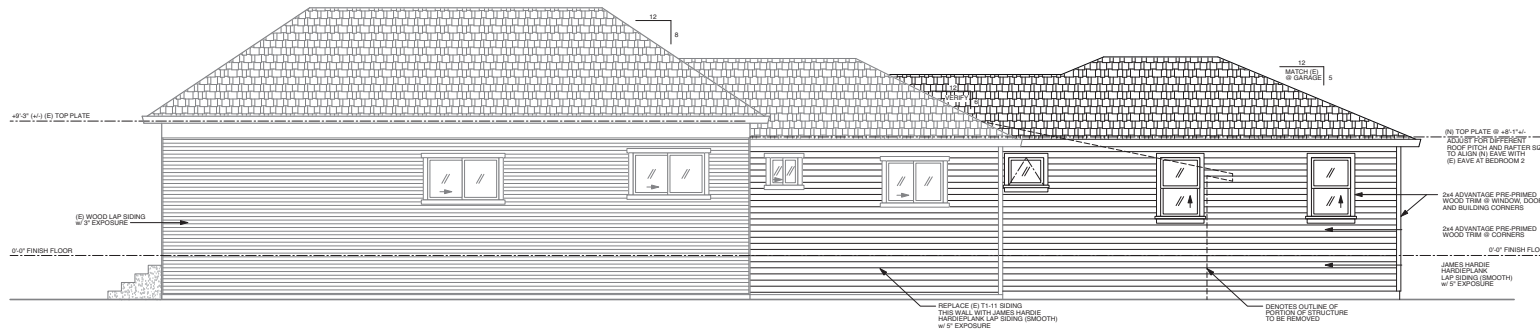


ROOF PLAN

1/4" = 1'-0"

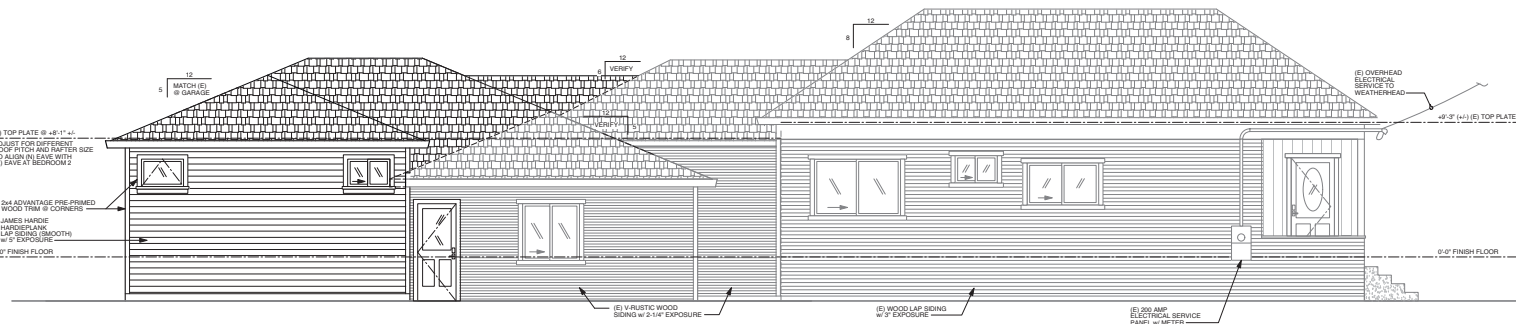


<b>Architect</b>	
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CONSULTANT	
ADDITION & REMODEL TO THE RESIDENCE AT: <b>655 JEFFERSON STREET</b> SANTA CLARA, CA 95050 200-35023	
PERSONS	DESCRIPTION
MARK	DATE
ISSUE/REV: PLANNING REVIEW	
PROJECT #: 2019-02	
DRAWN BY: RM	
CHECKED BY: RM	
ISSUE DATE: 10/15/19	
SHEET TITLE	
ROOF PLAN	
DRAWING NO.	
A-4	



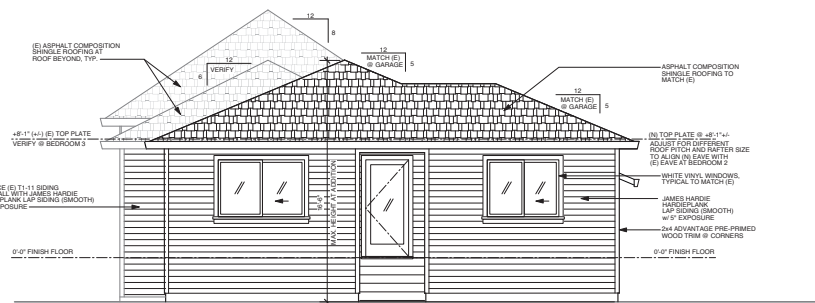
RIGHT ELEVATION

1/4" = 1'-0" 3



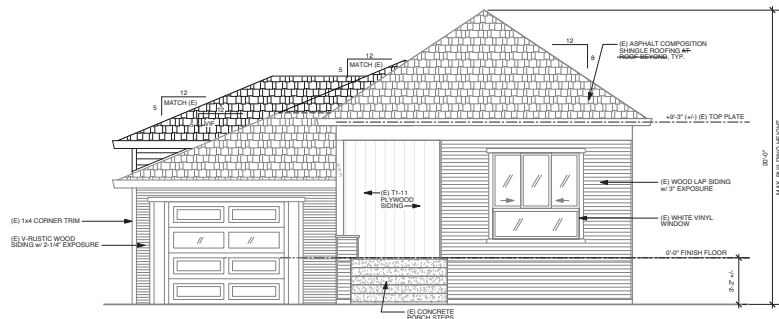
LEFT ELEVATION

1/4" = 1'-0" 2



REAR ELEVATION

1/4" = 1'-0" 4



FRONT ELEVATION

1/4" = 1'-0" 1

Architect

ROBERT MAYER



CONSULTANT

ADDITION & REMODEL TO THE RESIDENCE AT:

655 JEFFERSON STREET

SANTA CLARA, CA 95050

2019-30-029

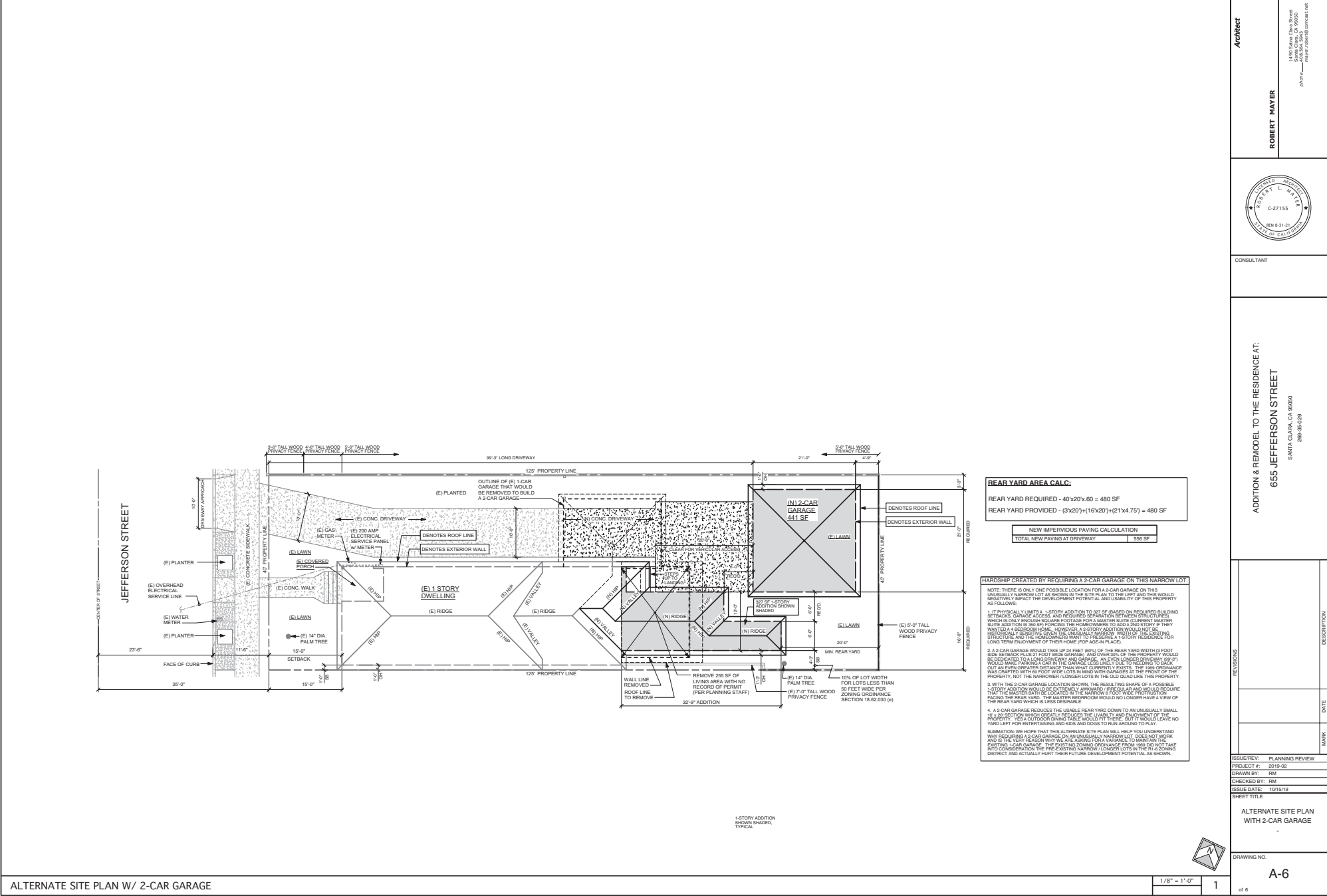
REVISIONS

ISSUE/REV: PLANNING REVIEW  
PROJECT #: 2019-02  
DRAWN BY: RM  
CHECKED BY: RM  
ISSUE DATE: 10/15/19  
SHEET TITLE: ELEVATIONS

DRAWING NO.

A-5

2019-03 MACHADO.dwg



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ADDITION & REMODEL TO THE RESIDENCE AT:  
655 JEFFERSON STREET  
SANTA CLARA, CA 95050  
200-30-029

REVISIONS

DATE

DESCRIPTION

ISSUE/REV: PLANNING REVIEW  
PROJECT #: 2019-02  
DRAWN BY: RM  
CHECKED BY: RM  
ISSUE DATE: 10/15/19

SHEET TITLE  
ALTERNATE SITE PLAN  
WITH 2-CAR GARAGE

DRAWING NO.

A-6

October 17, 2019  
Planning Department  
City of Santa Clara  
Santa Clara, CA

Application: Variance request for a substandard size lot (width and total area) to increase the lot coverage to 42.3% (2,160 SF) where 40% (2,000 SF) is allowed; and a Variance request to add 694 SF to convert the existing 2 Bedroom / 2 Bath home into a 4 Bedroom, 4 Bathroom Home.

Project Location: 655 Jefferson Street  
APN: 269-41-092

Dear Planning Staff,

We are requesting two Variances: 1) to increase the lot coverage to 42.3% (2,160 SF) where 40% (2,000 SF) is allowed by the zoning ordinance and 2) to add 694 SF to convert the existing 2 Bedroom / 2 Bath home into a 4 Bedroom, 4 Bathroom Home with a 1-car garage where 2-car covered parking is required.

This application includes plans for a 694 square foot addition to the rear of the existing single-family dwelling with an attached one car garage. During Planning Staff's initial review of this proposal they informed the applicant and homeowner that there is no building permit record for the existing 3<sup>rd</sup> Bedroom and 3<sup>rd</sup> Bathroom at the rear of the residence and so it seems our home is actually a 2 bedroom / 2 bathroom home. We purchased the home back in 2012 and were unaware that the rear bedroom and bath were unpermitted so it seems that 255 square feet of our existing home (noted as Bedroom and Bath 3 on the Demolition Plan) does not count as part of our existing habitable square footage. We explored various alternative design solutions that did not require a variance, such as a 2<sup>nd</sup> story addition or basement addition, but our architect felt that the massing of a 2<sup>nd</sup> story addition would look awkward on such a narrow structure (20'-2" wide) and negatively impact the historic streetscape of this block (there are 4 properties with the Mills Act on our street, one on either side and two across the street) and a basement would be far too costly. We looked into the option of creating a new detached 2-car garage to eliminate the variance, but this resulted in an awkward and dysfunctional solution on such an unusually narrow lot that would cost even more money to build (see sheet A-6 of the drawings for Alternate Site Plan). After much discussion, we decided that our long-term goal was to live in a 1-story home (for age-in-place) that creates the following:

1. Three bedrooms clustered at the rear of the residence.
2. A direct connection between the living area of our home and the rear yard as we currently have to walk through our garage to get to the rear yard.
3. A hall bathroom towards the rear of the house that is easily accessible from the rear bedrooms and the rear yard as we frequently entertain large groups of family/friends in our rear yard.

4. Maintain enough rear yard for a Dining Patio and plenty of lawn area for kids and dogs to play and enjoy our wonderful climate.
5. Preserve the historic streetscape of this block by maintaining a 1-story design. In a future project, when finances permit, we plan to: 1) replace the awkward vinyl windows at the front wall of the house with windows that are more historically compatible with a vintage home and 2) replace the modern plywood siding at the front porch, the entry door, the and front porch / steps with something more compatible with the historic neighborhood.

We understand that the Planning Commission must make the following four findings in order to grant the variances. Our justification for the variances is as follows:

***(A) That there are unusual conditions applying to the land or building which do not apply generally in the same district:***

The unusual condition that applies to this property is that is extremely narrow for the R1-6 Zoning District at 40 feet wide compared to the 60 foot standard. This lot is 33% narrower than the standard lot in this district and is more typical of lots in the Old Quad created prior to the 1969 Zoning Ordinance than those after. The 1969 Ordinance was created at a time when ranch-style homes were being developed in large tracts throughout Santa Clara's R1-6 Zoning District and these homes typically had 2-car garages attached to the front of the house which easily fit on the standard 60 foot wide lots while preserving large rear yards across the entire width of the property. The 1969 Ordinance did not take into consideration the older, narrower lot widths more common in the Old Quad, and actually created a hardship for the property owner by limiting development adapt the home to meet the modern family needs and this is why we are asking for the variances. In fact, the City realizes the challenges to further develop the unusually long and narrow lots and are in the process of updated the Zoning Ordinance to reduce the required covered parking to 1-car.

The unusual condition that applies to this property is that it is located in the historic Old Quad, on a historic street with 4 Mills Act properties (one on either side and two across the street). Although a 2<sup>nd</sup> story addition is possible, it would look awkward on such narrow, 1-story structure (due to the unusually narrow lot) and negatively impact the historic fabric of this block.

The combination of a long and narrow sub-standard lot with an unusually placed attached garage (most garages are detached in this particular Old Quad location whereas most attached garages are towards the front of the residence). To show you how the current 1969 Zoning Ordinance creates a development hardship for this property I have created an alternate site plan on sheet A-6 of the drawings that locates a new detached 2-car detached garage in the most practical place on the property. However, doing this greatly limits the amount of square footage on the 1<sup>st</sup> floor, in fact would really only permit a 1 bedroom / 1 bathroom addition which does not achieve the Homeowners long-term goals. Note how the driveway and garage take up the entire left side of the property, how awkwardly shaped the possible 1-story addition becomes and how small and disconnected the rear yard becomes. Although physically a 2-car garage could be built on the property, doing so would destroy the rear-yard which would greatly devalue the property.

***(B) That the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner:***

The existing 1-story, 2-bedroom dwelling has an awkward layout in that the two bedrooms are far apart which is not practical for a family with a young child; also, the existing front bedroom is unusually narrow at 7'-9" results in an awkward furniture layout. The proposed design removes the awkward elements of the home, preserves the 1-story massing of the residence to preserve the historic streetscape, while adapting the dwelling for long-term enjoyment of the Homeowner.

***(C) That the granting of such variance shall not, under the circumstances for the particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property, and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood:***

There are no indications that the proposed building addition harms the health, safety, peace, morals, comfort, or general welfare of the neighborhood. The proposed additions meet the required rear and side yard setbacks as required by the Zoning Ordinance while maintaining a large rear yard. The proposed design alters the existing exterior wall line (South side) to increase the side yard setback from a legally-nonconforming 2'-6" to a legally conforming 4'-0" (10% of lot width for lots less than 50 feet wide) to create greater separation to the neighbor and this is an added benefit. Although this dwelling is not designated historically significant, it is an older building form (steeper pitched hip roof) with wood siding and situated on a historic block in the Old Quad with 4 Mills Act properties. The proposed 1-story design is a historically sensitive solution that helps preserve and benefit the neighborhood whereas an alternative 2-story design could be considered materially detrimental to the neighborhood.

***(D) That the granting of the variance is in keeping with the purpose and intent of this title:***

Granting these variances does not allow the property owner to by-pass the developmental requirements for all future buildings or improvements, it merely helps mitigate the hardship presented by this unusually narrow and substandard lot to create a more cohesive living space with 3-bedrooms clustered together, a direct connection between the living spaces and the rear yard, while still meeting the building setbacks requirements for the zoning district.

We appreciate your time in considering our request and hope that you would agree that granting these variances are justified and would have a huge impact on improving the long-term livability of and quality of life for our family.

Sincerely,

Wayne Machado & Susie Fernandez  
Homeowners and Residents  
655 Jefferson Street

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, DENYING A VARIANCE TO THE LOT COVERAGE REQUIREMENT AND TWO-CAR COVERED PARKING REQUIREMENT TO CONSTRUCT A 694 SQUARE FOOT ADDITION TO A SINGLE-FAMILY RESIDENCE WITH AN EXISTING ATTACHED ONE-CAR GARAGE LOCATED AT 655 JEFFERSON STREET, SANTA CLARA**

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on October 17, 2019 Wayne Machado and Susie Fernandez (“Property Owners”) filed a Planning Application (PLN2019-14163) requesting a Variance for the property located at 655 Jefferson Street (APN: 269-35-029) (“Project Site”) in the City of Santa Clara;

**WHEREAS**, the Project Site is zoned Single Family Residential (R1-6L);

**WHEREAS**, the General Plan land use designation for the Project Site is Very Low Density Residential;

**WHEREAS**, the Property Owner has submitted an application for a Variance to the City’s 40% lot coverage maximum of the R1-6L Zoning District to allow 43.2% lot coverage, and to the two-car covered parking requirement, in order to construct an 694 square foot living area addition which would result in a four-bedroom, four-bathroom house with an attached one-car garage;

**WHEREAS**, the Project is not subject to review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15270, which states that CEQA does not apply to projects that a public agency rejects or disapproves;

**WHEREAS**, on February 13, 2020, the notice of meeting date for this item was posted in three conspicuous locations within 300 feet of the Project Site and mailed to property owners within a 300 foot radius of the Project Site for the Planning Commission hearing on February 26, 2020; and,

**WHEREAS**, on February 26, 2020, the Planning Commission held a duly noticed public hearing to consider the Variance application, during which the Planning Commission invited and considered any and all verbal and written testimony and evidence offered in favor of and in opposition to the proposed Variance.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the Planning Commission hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. That the Planning Commission hereby denies the Variance to the lot coverage maximum and two-car covered parking requirement that would have allowed construction of a 694 square foot addition to the existing single family residence with an attached one-car garage.

3. That pursuant to SCCC Section 18.108.040, the Planning Commission hereby makes the following findings related to the Variance request:

A. That there are no unusual conditions applying to the land or building which do not apply generally in the same district, in that property is located in a residential neighborhood originally constructed with one-story homes on narrower lots with attached one-car garages.

B. That the granting of the Variance is not necessary for the preservation and enjoyment of substantial property rights of the Property Owner, in that project could propose alternative designs to meet the two-car covered parking requirement or propose alternative designs, up to a 500 square foot addition, that would not trigger the two-car covered parking requirement.

C. That the granting of the Variance is not in keeping with the purpose and intent of the Zoning Ordinance, which establishes a requirement of two covered parking spaces for residences in the R1-6L zone, and the proposed Variance would grant an exception as compared to the other similarly situated properties in the neighborhood.

4. Effective date. This resolution shall become effective immediately.



I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON 26TH DAY OF FEBRUARY 2020, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_  
ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Conditions of Approval
2. Development Plans

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## Agenda Report

20-1320

Agenda Date: 1/2/2020

### REPORT TO HISTORICAL AND LANDMARK COMMISSION

#### **SUBJECT**

Public Hearing: Consideration of HLC Referral for projects near Historical Resource Inventory for the property located at 655 Jefferson Street

#### **BACKGROUND**

The existing single-story two-bedroom two-bathroom house was built on 1905 on a 5,000 square feet lot. The existing house is 1,414 square feet three-bedroom three-bathroom with an attached 278 square feet one-car garage. The applicant is proposing to demolish the third bedroom and the third bathroom previous addition at the back of the house that has no record of the Building Permit. A 694 square feet one-story addition to the back of the house to convert into a four-bedroom four-bathroom house with an existing one-car garage is proposed.

The applicant requests approval of a Variance to the Planning Commission to the 40% lot coverage requirement of the R1-6L to allow 43.2% lot coverage and to the covered parking requirement of the R1-6L Single Family Zoning District in order to move forward with a proposed 694 square feet addition to the rear of the existing house with one-car garage.

The project requires Planning Commission review and Architectural Committee review for the variance request. The property is located adjacent to two Mills Act properties to the north and south of the project site (1490 Santa Clara Street and 653 Jefferson Street). If the project is located within 200 feet of an HRI property, then prior to submitting the application to the Planning Commission and Architectural Committee, the application shall be referred to Historical and Landmark Commission (HLC) for recommendation. The HLC shall review the project for neighborhood compatibility and consistency with the City's Design Guidelines and make a recommendation to the Planning Commission.

#### **DISCUSSION**

The property was originally developed with a house and an attached one-car garage in 1905, predating the City's requirement for two covered parking spaces pursuant to Section 18.12.120(a) of the Santa Clara City Code (SCCC).

The application proposes 694 square feet addition to allow four-bedroom four-bathroom residence with an existing attached one-car garage. Pursuant to the General Plan, an expansion to an existing house with one-car garage beyond three bedrooms or 500 square feet triggers the requirement for a covered two-car garage.

#### *Consistency with General Plan:*

The project site has a General Plan land use designation of Very Low Density Residential. This designation is intended for residential densities up to 10 units per acre and is typically represented in

detached single-family neighborhoods. The proposed project to maintain an existing one-car garage is not consistent with following:

General Plan Implementation Action 4: One- and Two-Story Additions: Santa Clara's zoning regulations for single family homes are liberal enough that virtually every home can be added onto. The major exception is when older homes with only a one car garage are expanded beyond three bedrooms or by another 500 square feet. This triggers a two-car covered parking requirement. However, parking variances are usually granted when the house layout makes a two-car garage impossible.

*Zoning Conformance:*

The proposal is subject to the parking requirements of the Zoning Code unless a variance is granted by the Planning Commission. Pursuant to Chapter 18.108 of the City's Zoning Ordinance, where practical difficulties, unnecessary hardships and effects inconsistent with the general purposes of the Zoning Code may result from the strict application of certain provisions, variances may be granted. However, granting of a variance would require making the findings in SCCC Section 18.108.040, including that there are unusual conditions applying to the land or building which do not apply generally in the same district.

The subject property is narrow, measuring 40 feet in width, where properties in R1-6L zoning district are required to be at least 60 feet in width. However, the property is located in a residential neighborhood originally constructed mostly with one-story homes on narrower lots with one-car garages. Therefore, there are no unusual conditions applying to the property. Allowing one covered parking would be an exception as compared to the other single family homes in the R1-6L zone, similarly situated in the neighborhood and in the City.

The addition would result in 43.2% lot coverage whereas 40% lot coverage is the maximum allowed. A Variance is required in order to allow 43.2% lot coverage. The subject property's lot size is five thousand (5,000) square feet, where the minimum lot area for R1-6L zoning district is six thousand (6,000) square feet. However, the property is located in a residential neighborhood with a mix of lot sizes including lots smaller than 6,000 square feet. Therefore, there are no unusual conditions applying to this property.

Impacts to the Integrity of Nearby Listed Properties:

The City of Santa Clara Historic Preservation Ordinance formally establishes procedures for properties that are listed on the City's HRI or located within 200 feet of these properties. As this property is adjacent to two Mills Act properties and involves exterior alterations, it is a historic preservation goal of the City to protect historic resources from incompatible development and to evaluate potential negative effects on the historic integrity of the resource or its historic context.

*Conclusion:*

The property is located in a residential neighborhood originally constructed with one-story homes on narrower lots with attached one-car garages. Therefore, the proposed project does not meet the purpose and intent of the Zoning Code in that there are no unusual conditions applying to the land or building that do not apply generally in the same district.

The proposed addition is at the back of the property and with the location of the addition, there is no impact to the integrity of the nearby HRI properties. However, the project expansion is not typical for

the area or context, being within an historical area, and has no unusual conditions applying to this property. Therefore, staff does not support for the Variance request.

### **ENVIRONMENTAL REVIEW**

The scope of the proposed addition is exempt from the CEQA environmental review requirements per CEQA Section 15301, Class 1 Existing Facilities.

### **PUBLIC CONTACT**

The notice of public meeting for this item was posted at three locations within 300 feet of the project site and was mailed to property owners within 300 feet of the project site. No public comments have been received at the time of preparation of this report.

### **RECOMMENDATION**

Recommendation that the Historical and Landmarks Commission finds that the proposed project would not adversely impact the integrity of the listed resources in the vicinity of the project site, but has some limited historic context implications due to the size of the proposed addition.

Recommendation to the Planning Commission that there are no unusual conditions applying to this property and deny the Variance request.

Prepared by: Elaheh Kerachian, Associate Planner

Approved by: Gloria Sciara, Development Review Officer

### **ATTACHMENTS**

1. Project Data Sheet
2. Development Plans
3. Letter of Justification