



Legislation Details (With Text)

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**Title:** Action on Rezone and Variance for the property located at 130 Serena Way

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Excerpt of Planning Commission Minutes 10.24.18, 2. Planning Commission Staff Report 10.24.18, 3. Excerpt of Planning Commission Minutes 4.11.pdf, 4. Project Data, 5. Request Letter for Rezoning, 6. Development Plans, 7. Resolution Approving a Variance, 8. Resolution Approving Rezoning, 9. Conditions of Approval, 10. Resolution No. 18-8626, 11. Resolution No. 18-8627

Date	Ver.	Action By	Action	Result
11/27/2018	1	City Council and Authorities Concurrent	Adopted	

**REPORT TO COUNCIL**

**SUBJECT**

Action on Rezone and Variance for the property located at 130 Serena Way

**BACKGROUND**

The property owner of 130 Serena Way, George Tsai, is requesting that his property be rezoned from the A-Agricultural Zoning District to the R1-6L Single Family zoning district and that a Variance be granted to the property for deviations from the R-1-6L Zoning District development standards including allowance for a two foot and two inch side yard setback on the north side of the property. For the north side of the property a three foot side yard setback is normally required and allowance for an existing 648 square foot detached garage when 480 square feet is the maximum allowed for a detached accessory building.

The property was annexed into the City in 1969 from the County, and assigned the A - Agricultural zoning designation upon annexation. A 1974 City-initiated rezoning was never acted upon and the property has retained the A - Agricultural zoning designation.

**DISCUSSION**

The property owner is requesting the rezoning to facilitate the long-term use of the site as a single family residence consistent with neighboring uses, and to allow future expansion of the existing residence and construction of an accessory dwelling unit. The City's practice is to require issuance of a Variance in cases where an action initiated by the property owner, such as the requested rezoning, would result in a non-conforming condition. The degree of non-conformance (e.g., a setback 10 inches less than the requirement and an accessory structure 168 square feet larger than the maximum) exceeds the 25% variation from the Zoning Code that may be approved administratively and thus requires approval of a Variance by the Planning Commission or City Council. Although the

variance was approved by the Planning Commission, the variance needs to be approved with the rezoning, and the rezoning must be approved by City Council. Staff determined that the proposed rezoning is consistent with the General Plan and that the City can make the findings required to grant a Variance as described in the attached Planning Commission report and the attached resolution.

The project was considered at a noticed public hearing by the Planning Commission on October 24, 2018. The proposal was approved unanimously by the Planning Commission without discussion as a Consent Calendar item. No community members spoke on the project at the hearing. The excerpt of the Planning Commission meeting minutes, staff report, related documents, and resolutions approving the rezone and variance are attached to this report.

Approval of the proposed rezoning and Variance is necessary for the preservation and enjoyment of the property, will not adversely affect the general welfare of the neighborhood, and is consistent with the use of the property as a single family residential property. The proposed R1-6L zoning district and the existing residence are consistent with the City's General Plan Transitional Policies and the Single-Family and Duplex Design Guidelines, subject to approval of the variance. The existing building and the proposed single-family use is compatible in density and character with the surrounding neighborhood.

### **FISCAL IMPACT**

There is no impact to the City for processing the requested application other than administrative staff time and expense.

### **ENVIRONMENTAL REVIEW**

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15301 (Class 1 - "Existing Facilities") as the activity consists of the permitting of existing private structures involving negligible or no expansion of use beyond that existing at the time of the City's determination.

### **COORDINATION**

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

### **PUBLIC CONTACT**

On November 16, 2018, 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.

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Adopt a resolution approving the rezoning of the property at 130 Serena Way from Agricultural (A) to Single-Family Zoning District (R1-6L) and;
2. Adopt a resolution approving a Variance for an existing substandard side yard setback of two feet and two inches and a 648 square foot detached accessory building.

Reviewed by: Andrew Crabtree, Director of Community Development  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

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