



## Legislation Details (With Text)

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**Title:** Public Hearing: Action on Appeal of Planning Commission Action for the Property Located at 1593 Lexington Street

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**Attachments:** 1. Report Package for January 13, 2015 City Council Meeting, 2. Development Plans, 3. Resolution Overruling Planning Commission Denial, 4. Conditions of Approval 1593 Lexington St, 5. POST MEETING MATERIAL, 6. Resolution No. 18-8599

Date	Ver.	Action By	Action	Result
8/28/2018	1	Council and Authorities Concurrent Meeting	Approved	Pass
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## REPORT TO COUNCIL

### SUBJECT

Public Hearing: Action on Appeal of Planning Commission Action for the Property Located at 1593 Lexington Street

### BACKGROUND

The applicant is requesting Architectural approval to allow conversion to habitable space of a basement in an existing single-family residence and construction of a new detached garage also including basement storage and an Accessory Dwelling Unit (ADU). The project site is at 1593 Lexington Avenue. Pursuant to SCCC Sec. 18.76.020(h), the project is being brought to the City Council because it is an appeal of a previous Planning Commission action to deny the applicant's request for Architectural approval.

The 11,343 square foot site is currently developed with one single-story single-family residence and a detached garage. There are no other structures on the site. The property is bordered to the east by a single-family residence and to the north by a historic residence that also includes an office use. Single-family residences are located to the south across Lexington Street. Multi-family and commercial uses are located to the west across Winchester Boulevard.

The project was previously considered by the City Council on January 13, 2015, at which time the City Council granted the applicant a continuance to work with staff to improve the project design. The applicant made significant changes to the project and submitted the current proposal to the City on May 1, 2018. The current proposal would allow four bedrooms in the main residence (of which one is in the basement), and construction of a new structure housing a 2-bedroom ADU, a 2-car garage,

and underground storage.

### ***Project History***

This project began as a Code Enforcement case in 2007 when the applicant was contacted by the Community Development Department for performing work within the basement of the house without a Building Permit. The property owner then submitted an application for Architectural approval to legalize the use of the site and allow the residence to have a total of ten rooms (that potentially could be used as bedrooms) and seven baths. Of the ten rooms, five were proposed to be in the basement of the residence.

The City and the applicant performed extensive research to determine the legal status of the basement and to evaluate the potential historical value of the house structure, but were not able to substantiate that the habitable basement had been constructed legally, necessitating new approvals for the applicant in order to maintain the uses in place in 2007. The applicant subsequently suspended further residential use of the basement pending the outcome of the current application.

Although not formally listed, the property is eligible for listing on the City's Historic Resource Inventory, and so the proposal was reviewed by the Historic & Landmarks Commission (HLC) in accordance with General Plan policies. The HLC reviewed the proposal on February 6, 2014. Following public comment and a discussion, the HLC voted unanimously to recommend denial of the project as presented at that time. The HLC concluded that the proposed changes to the exterior of the building would not be compatible with other historic resources throughout the neighborhood. Since the HLC is an advisory body to staff, based on the HLC recommendations the Zoning Administrator determined the project would be inconsistent with General Plan policies for historic preservation and denied the application on February 27, 2014.

The applicant appealed the Zoning Administrator denial to the Planning Commission, where it was heard at its March 12, 2014 meeting. Following public comment and a discussion, the Planning Commission overruled the appeal, upheld the Zoning Administrator's action, and denied the project. In addition to the issues of compatibility with historic structures raised by staff and the HLC, the Planning Commission hearings included significant discussion regarding the project intensity, the number of bedrooms and the use of the basement as habitable space. On March 19, 2014, the applicant filed a timely appeal of the Planning Commission decision, and on March 25, 2014, the City Council set a public hearing for June 10, 2014 to consider the appeal. The public hearing date was subsequently moved from June 10, 2014 to the agenda of August 26, 2014, where it was then continued to January 13, 2015 due to applicant's medical condition. At the January 13, 2015 City Council meeting, the applicant requested a continuance to work with City staff to evaluate the current plans and consider alternatives.

The meeting minutes, staff reports, historical evaluation report and development plans from the previous HLC, Planning Commission, and City Council hearings are attached as Report Package of January 13, 2015 City Council Meeting.

### **DISCUSSION**

Because the project began as a code enforcement case, there has been considerable evaluation of the legality of the existing structures on the site and the ability of the applicant to legalize the previously non-permitted structures. The proposed project has further been reviewed for consistency with the City's General Plan, Zoning Code and Building Code and well as the new Historic Preservation Ordinance (HPO).

### ***Legal Status***

Code Enforcement activity was initiated for this site because the basement was in use as habitable residential (e.g. bedroom) space. The existing residence was constructed in 1912. At that time the County was the agency responsible for issuance of Building Permits for the property. Permit records available from the County do not substantiate that the basement was permitted as habitable space. The proposed habitable basement space is thus deemed to be new development/construction subject to City permitting requirements.

As noted above, on May 1, 2018, the applicant submitted new plans (attached) to convert the existing basement to a 1,296 square foot habitable space and construct a new detached two-car garage with underground storage for the main house and a 1,178 square foot two bedroom ADU. This new proposal makes use of the City's updated ADU ordinance and new HPO ordinance, both of which were adopted in 2017 and provide an altered legal context for the project.

### **General Plan**

The General Plan designation for the site is Very Low Density Residential which supports single-family residential use. Consistent with State law, ADUs are also supported on single-family uses. The proposed project is for a single-family residence and ADU and conforms to this designation. The General Plan also establishes policies related to the preservation of historic resources. The City's implementation of these policies has been further clarified through the adoption of a Historic Preservation Ordinance. As discussed below, the current project conforms to the HPO.

Over the course of the project's review, staff has carefully considered the Secretary of Interior's Standards for Rehabilitation and contacted the California Office of Historic Preservation for further guidance on how to evaluate the compatibility of changes to a building elevation with nearby historical resources. Generally the evaluation of such changes depends largely on the sensitivity of the immediate neighborhood context. In this case, the main residence is a single-story structure and the height of the front façade will remain the same even if the back portion is raised by 16 inches as proposed. The main residence is also separated from adjacent uses by greater than typical setbacks and is in proximity to other structures of varying height, including two-story houses directly across the street and immediately to the east. Further the revised project reduces the overall intensity of use within the historic structure by reducing the bedroom count from 10 to four rooms. For these reasons, along with clarifications provided through the new HPO, staff concludes that the proposed residence would be sufficiently consistent with the neighborhood context to conform to the General Plan.

### ***Zoning Code***

The site is zoned R3-36D Medium Density Multiple Dwelling. While this Zoning Designation potentially supports multi-family as well as single-family uses, the General Plan governs new development and limits new development on the site to single-family use. As the proposed use is a single-family use and ADUs are allowed in single-family zoning districts, the proposed use is consistent with the Zoning.

The project also conforms to the Zoning Code development standards. The revised design of the main house includes partial refurbishment of the basement for a family room, master bedroom, and mechanical storage. The proposal would raise most of the house, except the front façade, by 16 inches to create an eight foot ceiling height in the basement. The maximum height of the main house would thus be 19 feet tapering down to 9 feet and seven inches at the front facade. The maximum

height of the R3-36D District is 45 feet, but the project would also fall under the 25 foot height limit of a single-family zoning district.

The existing garage would be demolished to construct a new detached two-car garage with 789 square feet underground storage space. The underground storage would have a five and a half foot plate height and not be considered habitable space. Two covered parking spaces would be provided in the garage and two uncovered parking spaces in the front of the garage, for a total of four parking spaces onsite. The R3-36D District requires one garage per dwelling unit. The standard requirement in single-family districts is a 2-car garage with a minimum 20-foot driveway. The project would conform to this requirement.

The proposed detached ADU is designed in accordance to the development standards for the Accessory Dwelling Unit Ordinance. The building is set five feet from the rear and side yard setback, and six feet from the stair case leading to the main house. With the 11,343 square feet lot size, the new ADU and garage would only occupy 33.2 percent of the overall lot and 40 percent of the required rear yard. The ADU is proposed at 14 feet and the garage at 12 feet in height to comply with the Zoning Code. The ADU would be attached to the garage with its own separate access, but there would be no direct access to the garage from the ADU.

### ***Historical Preservation Ordinance***

According to the new HPO, a development proposal for an addition to a non-listed property, or the construction of a new ADU on a non-listed property, are not required to be consistent with the Secretary of Interior's Standards. Although it is not required, the applicant has designed the detached ADU and garage in the same general Vernacular Craftsman style as the main house. The proposal would not significantly alter the main house with the reduction of the contemporary deck in the rear and the increase in height of the main house by 16 inches.

### ***Conclusion***

The applicant has been working with the Planning and Building Division to maintain the site and pursue a project proposal that would correct the unpermitted basement while providing the additional habitable space desired by the property owner. Although the correction case has been outstanding for several years, the applicant has been demonstrating good faith in keeping the basement uninhabited and no additional code enforcement action has been necessary. Making use of the newly adopted ADU and Historical Preservation Ordinances, the project was redesigned to reduce the bedroom count from ten to four in the main house and to include a detached two-bedroom ADU. While the new HPO clarifies that the project is not subject to the Secretary of Interior's Standards for Rehabilitation, staff has determined that the project as now proposed would generally be consistent with those standards, as well as the applicable ADU and Zoning Code requirements and is therefore able based on the revised project to recommend that the City Council overturn the Planning Commission denial and grant Architectural approval for the project subject to the attached conditions of approval (Attachment 4).

### **FISCAL IMPACT**

There is no additional cost to the City other than administrative staff time and expense.

### **ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Section 15303, new construction or conversion of small structures. Class 3 consists of construction and location of limited numbers of new, small facilities or structures.

## **COORDINATION**

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

## **PUBLIC CONTACT**

On August 17, 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 during the preparation of this report.

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 beginning the Thursday evening before the Tuesday 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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

## **ALTERNATIVES**

1. Sustain the appeal, overrule the Planning Commission's action, and approve the basement conversion and a new accessory dwelling unit for the property at 1593 Lexington Street, subject to conditions of approval.
2. Overrule the appeal, uphold the Planning Commission's action and deny the basement conversion and a new accessory dwelling unit for the property at 1593 Lexington Street.

## **RECOMMENDATION**

1. Sustain the appeal, overrule the Planning Commission's action, and approve the basement conversion and a new accessory dwelling unit for the property at 1593 Lexington Street, subject to conditions of approval.

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

## **ATTACHMENTS**

1. Report Package for January 13, 2015 City Council Meeting
2. Development Plans
3. Resolution Sustaining the Appeal and Overruling Planning Commission Denial
4. Conditions of Approval 1593 Lexington St