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Attachments:	1. Appeal Justification Statement, 2. Early Agreement Termination Letter, 3. Project Data, 4. Excerpt of AC Meeting Minutes of April 17, 2019, 5. AC Staff Report June 19, 2019, 6. Excerpt of AC Meeting Minutes of June 19, 2019, 7. Planning Commission Staff Report of August 14, 2019, 8. Excerpt of PC Meeting Minutes of August 14, 2019, 9. Public Comments to 8.2.19, 10. Development Plan, 11. Conditions of Approval, 12. Resolution, 13. POST MEETING MATERIAL, 14. Resolution				

Date	Ver.	Action By	Action	Result
10/29/2019	1	Council and Authorities Concurrent Meeting	Approved	Pass

REPORT TO COUNCIL

SUBJECT

Public Hearing: Action on Appeal of Architectural Committee Approval for the Property at 2892 Sycamore Way

BACKGROUND

The property owner of the subject residence, Lei Xu (Jane), submitted an application on March 21, 2019 for architectural approval to allow the demolition of an existing single-family residence and construction of a new 3,450 square foot two-story residence with five bedrooms, five and a half bathrooms, and an attached two-car garage. As submitted, the project design included six points of access from the exterior to the interior of the residence. The proposal also included two second-story balconies facing the rear yard.

The subject property, located at the southwest side of Sycamore Way before it turns into Bancroft Street, is 11,589 square feet in area and currently developed with a one-story residence with four bedrooms, two bathrooms, and an attached two-car garage. The site is surrounded by one- and two-story single-family residences on all sides, designated as Very Low Density Residential in the General Plan and zoned Single-Family Residential (R1-6L).

June 19, 2019 Architectural Committee Approval

The project was considered by the Architectural Committee at public hearings on April 17, 2019 and June 19, 2019. Several community members spoke in opposition to the project, describing negative impacts to the neighborhood from the property's recent use as a high-occupancy short-term rental and expressing concern that approval of the new house project would facilitate continued use of the

property in this manner. Following public testimony, the Architectural Committee approved a modified version of the project to allow five bedrooms, three and a half bathrooms (instead of the proposed five and a half bathrooms), an attached two-car garage and one balcony (instead of two proposed balconies). The Committee also limited exterior access to three entrances from the front, rear and garage (instead of the proposed six exterior accesses including two ground floor bedrooms and a dining room).

Appeal of June 19, 2019 Approval

The applicant filed a timely appeal of the Architectural Committee Approval, requesting that the conditional approval be modified to include some of the additional features that had been submitted to the Architectural Committee including the fifth full bathroom and an exterior access from the rear yard to a ground floor bedroom. The applicant provided a revised plan set for the current proposal, dated July 26, 2019 (Attachment 2). The revised plans also include a minor 65 square foot alteration in the floor plan for a workout space in the garage. The applicant's basis for the appeal are set forth in the applicant's appeal justification statement as follows:

- The proposed number of bathrooms is common in the immediate neighborhood;
- The Architectural Committee has granted past approvals for single-family residences with four bathrooms or more;
- Direct access to the back yard from a first-floor master bedroom is a common design feature; and
- The property owner terminated their agreement with the property manager prior to its planned expiration in response to the neighborhood's concerns with the short-term rental use.

August 14, 2019 Planning Commission Hearing

On August 14, 2019, the Planning Commission considered the appeal at a duly noticed public hearing. Chair Becker and Commissioner Kelly abstained, having voted on this item at a previous Architectural Committee Meeting. Commissioner Ikezi abstained due to the proximity of the project to her place of residence. As a result only four Planning Commissioners were able to participate in the hearing and would need to be unanimous in order to take an action on the project.

During public testimony, neighbors raised similar issues as those heard at the Architectural Committee and also objected to specific elements in the proposed design, including the large size of second floor closets, which included windows, and the presence of closets in the living room. The neighbor living immediately adjacent at 2866 Sycamore Way expressed concern with the view from the proposed second floor balcony into his backyard.

Following public testimony, the Planning Commission voted on, but did not pass a motion to overrule the appeal. A second motion was considered to sustain the appeal with added conditions to require an inspection two years after building permit final and make the entrance to Bedroom #1 non-lockable from the outside. The second motion also failed to gain a unanimous vote of the four participating Commissioners. The Planning Commission then voted unanimously to pass a third motion to refer the appeal to City Council with no recommendation. The appeal is thus before the City Council as a referral by the Planning Commission.

DISCUSSION

Staff analysis of the project is based upon the project's consistency with City's Zoning Ordinance and Design Guidelines and the degree to which the project includes measures to address community

concerns.

Zoning Ordinance

The subject property is zoned as R1-6L, Single-family Zoning District. This District is intended to support single-family residences and includes standards to stabilize and protect the residential characteristics of the district and to promote and encourage a suitable single-family residential environment. This District (and other residential zoning districts established in the City's Zoning Code) do not regulate the total number of bedrooms, bathrooms or exterior access. As depicted on the plan set submitted by the applicant, the proposed two-story residence on a 11,589 square foot lot with five bedrooms, four and a half bathrooms, and an attached two-car garage is consistent the development standards and intent of the R1-6L Single-family Zoning District. However, the addition of a fourth or more bedrooms or a third or more bathrooms is subject to the City's Architectural Review committee process.

The Zoning Code does not currently include regulations for short-term rental use. While much of the community discussion has focused on this concern, the prior use of the property in this way was allowed under the Zoning Code. The applicant has indicated that their intent is to develop the property for conventional use as a single-family residence. This topic is addressed further below.

Design Guidelines

As discussed in the attached August 14, 2019 Planning Commission staff report (Attachment 8), staff determined that the appellant's initial design, as well as the redesign presented to the Planning Commission, are consistent with the City's Single-Family Design Guidelines. Based on this analysis staff recommended approval to the Architectural Review committee.

The Architectural Committee generally found the project to be consistent with the City's Design Guidelines and granted approval with minor modifications intended to address neighborhood concerns. The applicant agreed to several of the changes included with the Architectural Committee approval, but submitted an appeal requesting approval of a project design that would include one additional bathroom and an exterior access for Bedroom #1 on the ground floor. In response to a neighbor's concerns about privacy impacts, the applicant agreed to remove one of the two proposed 2nd floor balconies. The Architectural Review committee determined that the remaining balcony was positioned so as not to result in an impact on the neighbor's privacy.

As noted in the applicant's justification statement and confirmed by staff, within the last six months the Architectural Committee has approved several single-family projects with four or more bathrooms. Also, as suggested by the applicant, rear yard access from a master bedroom is common in single-family residences.

Although the Architectural Committee and Planning Commission regularly exercise their discretion to reduce the number of bedrooms and/or bathrooms, and make changes to exterior architectural features including points of access, the Architectural Committee has also approved residences with four or more bathrooms and an exterior access for at least one ground-floor master bedroom. The revised floor plan reduces the number of access points to the ground floor from six to four and is therefore responsive to the community's concern with potential high-volume short-term rental use of the property. Entrances proposed by the property owner are now limited to a sliding door in a ground-floor master bedroom accessing the rear yard, a sliding door from the family room accessing the rear yard, a door in the garage accessing the side yard, and the main front entrance.

The proposed floor plan interior is also consistent with typical design practices and functionality for a single-family residence. The ground floor is designed with an open concept and connected common open areas. Common areas are primarily on the ground floor and occupy about 40 percent of the total living area. Two bedrooms and two and half bathrooms are on the ground floor and three bedrooms and two bathrooms are on the second floor.

Community Concerns

Based on communications from neighboring property owners, the primary neighborhood concern is the recent use of the property as a high-volume, short-term rental property. Neighborhood residents made multiple complaints to the City regarding disturbances, and unruly behavior by tenants and associated parking impacts and submitted a petition requesting that the City take action to stop the short-term rental practice occurring on the property.

In response the City conducted an inspection of the property and found it to be in compliance with the current Zoning and Building codes, with the exception that a new water heater had been installed without benefit of a permit, likely prior to the purchase of the property by the current owner. The City is in the process of a comprehensive Zoning Code update that would establish new regulations and limitations upon the use of single-family residences for short-term rental and should address most, if not all, of the concerns raised by the community. The new regulations are expected to be considered by the City Council in early 2020 and thus in effect prior to the completion of the proposed house construction. Future use of the property would thus be subject to those regulations.

The applicant has confirmed that they have followed through with the early termination of their agreement with the property manager operating the short-term rental activity on the property. The applicant ended the property manager contract in July 2019 and all tenants moved out by July 26, 2019. A documentation of this early termination is attached.

The Planning Commission discussed the possibility of requiring an inspection two years after the building permit final to confirm code compliance and the use of the property as a single-family home consistent with the requirements of the Zoning Code. Because the Planning Commission did not take action, this condition was not added to the project, but the condition could be added as part of a City Council action. The applicant agreed to the addition of this as a condition of approval at the August 14, 2019 Planning Commission hearing.

Conclusion

Approval of the proposed two-story residence with five bedrooms, four and a half bathrooms, an attached two-car garage, and an exterior access for Bedroom #1 on the ground floor would be in keeping with intent of the Single-family Zoning District and Single-Family Design Guidelines and the general building form exhibited by other residences in the neighborhood. The property owner has worked with staff and the community to address exterior modifications for neighborhood compatibility and privacy.

Concerns raised about use of the property as a high-volume short-term rental can best be addressed by new regulations proposed as part of the Zoning Code Update, which the property would be subject to once the proposed project is complete. The applicant has also provided evidence of steps taken to stop short-term rental activity on the property since July 2019. The applicant has also shared their interest in beginning construction promptly after approvals which would also cease any short-term rental activity that can occur on the property.

As the revised project design demonstrated consistency with the City's Design Guidelines and Single-family Zoning District standards, staff is recommending the City Council sustain the applicant's appeal and modify the Committee's June 19, 2019 decision as requested by the Appellant.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303(a) of the CEQA Guidelines (New Construction or Conversion of Small Structures), which authorizes the construction and location of limited numbers of new, small facilities or structures, including a single-family residence.

FISCAL IMPACT

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

COORDINATION

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

PUBLIC CONTACT

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.

On October 18, 2019, 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.

ALTERNATIVES

1. Adopt a Resolution to sustain the appeal and modify the decision of the Architectural Committee of June 19, 2019 to allow five bedrooms and four and half bathrooms with an exterior access for Bedroom #1, subject to the condition of an inspection two years after building permit final.
2. Overrule the appeal and uphold the decision of the Architectural Committee of June 19, 2019 to allow five bedrooms, three and half bathrooms, limit exterior access to three entrances, and no exterior access from the ground floor bedrooms.

RECOMMENDATION

Alternative 1:

Adopt a Resolution to sustain the appeal and modify the decision of the Architectural Committee of June 19, 2019 to allow five bedrooms and four and half bathrooms with an exterior access for Bedroom #1, subject to the condition of an inspection two years after building permit final.

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Appeal Justification Statement
2. Early Agreement Termination Letter

3. Project Data
4. Excerpt of Architectural Committee Meeting Minutes of April 17, 2019
5. Architectural Committee Staff Report of June 19, 2019
6. Excerpt of Architectural Committee Meeting Minutes of June 19, 2019
7. Planning Commission Staff Report of August 14, 2019
8. Excerpt of Planning Commission Meeting Minutes of August 14, 2019
9. Public Comments Received to 8.2.2019
10. Development Plan
11. Conditions of Approval
12. Resolution to Sustain Appeal and Modify Architectural Committee Approval