



## Legislation Details (With Text)

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|-----------------------|--|----------------------|---|---------------------|--|
| <b>File #:</b>        | 20-596   | <b>Version:</b>      | 1 | <b>Name:</b>        |  |
| <b>Type:</b>          | Public Hearing/General Business  | <b>Status:</b>       |   | Agenda Ready        |  |
| <b>File created:</b>  | 5/28/2020  | <b>In control:</b>   |   | Planning Commission |  |
| <b>On agenda:</b>     | 6/10/2020  | <b>Final action:</b> |   |                     |  |
| <b>Title:</b>         | Public Hearing: Action on an Amendment to Variances (V.1090 and V.1091) for the properties located at 1560 and 1582 Jackson Street. Continued from May 27, 2020 Planning Commission Meeting. |                      |   |                     |  |
| <b>Sponsors:</b>      |  |                      |   |                     |  |
| <b>Indexes:</b>       |  |                      |   |                     |  |
| <b>Code sections:</b> |  |                      |   |                     |  |
| <b>Attachments:</b>   | 1. Resolution Approving the Amendment to the Variances, 2. CC minutes of May 3, 1977 and July 5, 1977, 3. Recorded Covenant Agreement, 4. Staff PowerPoint                                   |                      |   |                     |  |

| Date      | Ver. | Action By           | Action   | Result |
|-----------|------|---------------------|----------|--------|
| 6/10/2020 | 1    | Planning Commission | Approved | Pass   |
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## REPORT TO PLANNING COMMISSION

### SUBJECT

Public Hearing: Action on an Amendment to Variances (V.1090 and V.1091) for the properties located at 1560 and 1582 Jackson Street. Continued from May 27, 2020 Planning Commission Meeting.

### REPORT IN BRIEF

Project: Amend Variances that approved a reduction in the minimum lot size, lot width and side yard setbacks requirements for two adjacent parcels located at 1560 and 1582 Jackson Street, and remove the project condition of approval for a covenant agreement prohibiting added residential density on the two single family zoned (R1-6L) properties.

Applicant/Property Owner: Alan Tsai for the property located at 1560 Jackson Street and Mary Ma-Li Chen for the property located at 1582 Jackson Street.

General Plan: Very Low Density Residential

Zoning: Single Family Residential (R1-6L)

Site Area: The lot area for 1560 Jackson Street is 5,271 square feet and is 5,226 square feet for 1582 Jackson Street.

Existing Site Conditions: The properties are separate lots developed with one-story single-family residences. The residence at 1560 Jackson Street has an attached one-car garage while the property at 1582 Jackson Street is without an on-site covered parking structure. The property conditions have not changed since the issuance of the Variance.

### Surrounding Land Uses

North: Single family residence

South: Medical office building and a restaurant with associated surface parking lot

East: Single family residence and Jackson Street

West: Multi-family apartment dwelling

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

Staff Recommendation: Approve the request to amend the Variances for removal of the condition of approval requiring a covenant agreement to prohibit added residential density on two separate single-family residential properties located at 1560 and 1582 Jackson Street.

## **BACKGROUND**

The subject properties were once a single lot that was zoned Medium-Density Residential (R3-36D) and developed with two-single family homes. In 1977 the Property Owner filed for a variance to reduce the lot size, lot width and required side yard setbacks in order to subdivide the property into two lots. The Variance requests were denied by the Planning Commission in March 1977 and were appealed to the City Council. On July 5, 1977, the City Council overruled the Planning Commission denial and approved the Variances for the lot split and reductions in lot size, lot width and side yard setbacks provided that the Owners did not protest the City rezoning the lots to Single-Family Residential (R1-6L), and executed a Covenant Agreement with the City to restrict the use and density of development of the lots. The Covenant Agreement was executed in February 1978 and limits the Owners and their assigns and successors in interest from expanding the single-family residential use. It also requires any replacement residence to be the same size and character as the existing one-story homes on the two lots. The properties were subsequently sold and are in separate ownership.

City Council meeting minutes of May 3, 1977 and July 5, 1977 are provided as Attachment 2. The recorded Covenant Agreement is provided as Attachment 3.

Since 1978, the City and region have experienced rising job growth and demand for housing. Provisions in State law support the creation of new and affordable housing and have legislated the allowance of accessory dwelling units (ADUs) on single family residential lots to provide additional housing opportunities to increase and diversify a jurisdiction's housing stock. ADUs count towards the City's Regional Housing Needs Allocation (RHNA).

The property owner of 1560 Jackson Street is proposing to intensify development on the property with construction of a 698 square foot detached ADU to the rear of the 789 square foot existing single-family residence. The proposal does not include replacement or expansion of the existing residence. An amendment to the Variances deleting the requirement for the Covenant Agreement is required to allow construction of the proposed ADU that would otherwise be allowed by right under existing State legislation. Terminating the Agreement would afford the property owner of 1582 Jackson Street the opportunity to expand the existing single-family residence and construct an ADU as well, if approved. The property at 1560 Jackson Street could also intensify development further by expanding or replacing the existing single family home in the future, if the covenant is removed.

## **DISCUSSION**

Pursuant to Chapter 18.108.010 of the SCCC, where practical difficulties, unnecessary hardships and effects inconsistent with the general purpose of the Zoning Code may result from strict application of certain provisions, Variances may be granted.

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

The General Plan designation for the subject properties is Very Low Density Residential. This designation is intended for residential densities of up to ten units per acre and is typically single-family in scale and character, with a prevailing building type of detached single-family dwellings.

The proposal is consistent with the following General Plan policies:

- 5.3.1-P8 Work with property owners to improve or redevelop underutilized and vacant properties.
- 5.3.2-P1 Encourage the annual construction of the housing units necessary to meet the City's regional housing needs assessment by reducing constraints to housing finance and development.

The property owner of 1560 Jackson Street is proposing to construct a detached ADU in the rear yard of the property. An amendment to the Variances deleting the Covenant Agreement requirement would allow the property owner to improve the property and contribute an ADU to the City's housing stock. It would also allow the property owner of 1582 Jackson Street the same opportunity to construct an addition or ADU and contribute to the supply of housing.

### *Zoning Conformance*

The properties located at 1560 and 1582 are under separate ownership and are zoned R1-6L. Due to the reduced development standards approved for each lot by the Variance in 1977, both properties are considered legal non-conforming under the Zoning Code Section 18.94.020 (Non-conforming Uses). As such, non-conforming properties may be expanded in conformance with the Zoning Code, if the Covenant is removed. Should the amendment to the Variances be approved, administrative review of the ADU or expansion of the main house would be carried out consistent with the provisions of the Zoning Code.

### *Conclusion*

Terminating the Covenant Agreement prohibiting the intensification of the residential use on the subject properties would be necessary to allow the Owners the ability to construct additions to the homes or ADUs on the subject properties consistent with the property rights afforded to single-family zoned property owners throughout the City, and as provided under State law to address the housing crisis in California.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303(a), New Construction or Conversion of Small Structures, in that the amendment to the variance will facilitate the construction of a proposed ADU as well as expansion of the main homes.

## **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**

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

On May 15, 2020, a notice of public hearing of this item was posted in at least three conspicuous locations within 300 feet of the project site and mailed to property owners within 300 feet of the project site. At the time of this staff report, Planning staff has not received public comment in support or opposition to the proposed project.

### **ALTERNATIVES**

1. Adopt a Resolution to Amend the Variances to delete the requirement for a Covenant Agreement prohibiting the intensification of the residential use for the properties located at 1560 and 1582 Jackson Street.
2. Deny an Amendment to the Variances to delete the requirement for a Covenant Agreement prohibiting the intensification of the residential use for the properties located at 1560 and 1582 Jackson Street.

### **RECOMMENDATION**

Alternative 1: Adopt a Resolution to Amend the Variances to delete the requirement for a Covenant Agreement prohibiting the intensification of the residential use for the properties located at 1560 and 1582 Jackson Street.

Prepared by: Debby Fernandez, Associate Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

### **ATTACHMENTS**

1. Resolution Approving the Amendment to the Variances
2. City Council meeting minutes of May 3, 1977 and July 5, 1977
3. Recorded Covenant Agreement