



## Agenda Report

19-857

Agenda Date: 8/14/2019

### REPORT TO PLANNING COMMISSION

#### **SUBJECT**

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

#### **REPORT IN BRIEF**

Project: Architectural review to allow the demolition of an existing single-family residence and construction a new 3,450 square foot two-story residence with five bedrooms, three and a half bathrooms, and an attached two-car garage.

Applicant/Owner: Lei Xu (Jane)

General Plan: Very Low Density Residential

Zoning: Single-Family Residential (R1-6L)

Site Area: 11,589 square feet

Existing Site Conditions: One-story residence with four bedrooms, two bathrooms, and an attached two-car garage.

Surrounding Land Uses: The project site is located at the southwest side of Sycamore Way before it turns into Bancroft Street. The site is surrounded by one- and two-story single-family residences on all sides.

Issues: Consistency with City's Design Guidelines and Zoning Ordinance.

Staff Recommendation: Adopt the resolution to sustain the appeal and modify the decision of the Architectural Committee on June 19, 2019 to allow five bedrooms and four and half bathrooms with exterior access for Bedroom #1 (as designated in the attached development plans) in addition to access from the front, rear and garage.

#### **BACKGROUND**

Since the purchase of the subject residence in August of 2018, the owner has been renting out the property to long-term and short-term tenants to cover expenses while she pursued design review for a new home on the property. The Community Development Department received two service calls from neighboring residents in October of 2018 regarding poor waste management, overcrowded occupancy, tenant sleeping in car, and excessive on-street parking. The City's Building Inspector and Code Enforcement Technician contacted the property owner and inspected the site. The inspectors did not discover any room conversion or structural alteration. Warnings were given for poor property management, and one violation was identified for replacement of a water heater without a permit. After the owner was informed of these impacts and addressed them, City staff has not received further complaint on nuisances.

The owner, Lei Xu, filed an application on March 21, 2019 to demolish the existing 2,197 square foot four bedroom and two bathroom residence with an attached two-car garage, and construct a new 3,450 square foot two-story residence with five bedroom, five and a half bathroom and an attached two-car garage ("Project"). The proposal also included two second-story balconies facing the rear yard.

The project was considered at two Architectural Committee meetings on April 17, 2019 and June 19, 2019. The Architectural Committee approved a modified version of the Project on June 19 to allow for 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). The staff report for June 19, 2019 and the meeting minutes for both Architectural Committee meetings are attached to this report.

On June 26, 2019, the applicant filed an appeal on two aspects of the Architectural Committee's approval including 1) requesting an increase in the number of the bathrooms from the approved three and half bathrooms to four and a half bathrooms and 2) requesting one exterior access for Bedroom #1 beyond the three approved exterior accesses (front, rear and garage). The applicant's justification statement for the appeal is attached.

## **DISCUSSION**

### ***April 17, 2019 Architectural Committee Meeting***

On April 17, 2019, the Architectural Committee ("Committee") considered the initial Project with five-bedrooms and five and a half bathrooms. Following public testimony, the Committee continued the project for redesign with the following four recommendations:

1. Reduce bathroom count to three and a half bathrooms.
2. All second-story side (except at staircase) windows must have a minimum five-foot window sill height.
3. Integrate more hip-style roof or horizontal gable-style roof to closely match the roof form in the surrounding neighborhood.
4. Incorporate similar external building materials or design in the neighborhood into the building façade.

After the April 17 meeting, the owner reached out to the neighbors for feedback. The neighbors expressed privacy concerns from the second-story side-facing windows and the rear-facing balconies. The neighbors also requested that the owner stop the short-term rental activity. The City has received a neighborhood petition requesting action to limit the high volume short-term rental practice occurring on this property. Community Development has notified the property owner about the community concerns and the upcoming Zoning Code Update to address short-term rental regulations.

### ***June 19, 2019 Architectural Committee Meeting***

The applicant revised the development plans according to the Committee's recommendations and made additional changes to accommodate for privacy concerns from the balconies and second-story side facing windows ("Revised Project"). In addition to the changes, the applicant committed to terminating contracts with the current property manager by July, two months before the end of the contract term. The Revised Project's submitted for the June 19 meeting included the following:

1. The number of bathrooms was reduced to three and a half from the previous five and a half count.
2. All second-story windows on the two sides of the house were revised to have a five-foot

window sill height.

3. Replaced one of the gable roofs to a hip roof to be more consistent with the second-story form of the neighborhood.
4. Added stone veneer to garage and porch columns to provide similar exterior features as other residences.
5. Removed the north balcony entirely.
6. Proposed a five-foot wall on the south side of the remaining balcony to address privacy concerns.

On June 19, 2019, the Committee considered the Revised Project and a verbal request from the applicant for an additional bathroom (for a total of four and a half bathrooms) in Bedroom #2. During the public comment period, neighbors expressed concerns with the six exterior accesses from the ground floor, the fourth full bathroom, and the continued operation of short-term rentals. The concern is that additional bathrooms and excessive exterior accesses could provide further accommodation for high volume short-term rental in the future. Planning staff informed the public that the City does not currently have regulations addressing short-term rentals, or limiting the number of bathrooms for a single-family residence. Following public testimony, Committee members Becker and Kelly agreed to limit the exterior access to only three entrances: front, rear, and garage. However, the Committee members did not have consensus on the total number of bathrooms to be allowed. Committee Kelly supported the fourth full bathroom in Bedroom #2 with the condition that the exterior access in Bedroom #2 be removed. Committee Becker noted that four and a half bathrooms for a five bedrooms residence is excessive. Ultimately, the Committee members approved the Revised Project with exterior modifications, including five bedrooms, three and a half bathrooms, one balcony and limited exterior access (front, rear and garage).

### ***Appeal of June 19, 2019 Approval***

The applicant filed a timely appeal of the Architectural Committee's approval to propose a fourth full bathroom in Bedroom #2 and retain the exterior access for Bedroom #1, as shown in the attached development plans. All exterior changes remain the same as approved. The attached 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, and are the following:

- The proposed number of bathrooms is common in the immediate neighborhood;
- The Committee's past approvals of four bathrooms or more;
- The common nature of having access to the back yard from a master bedroom on the first floor; and
- Early termination of agreement with the property manager in response to concerns of short-term rentals.

The applicant agrees to the majority of changes included with the Architectural Committee approval however the basis for appeal is to add of one bathroom and an exterior access for Bedroom #1 on the ground floor. As noted in the applicant's justification statement and confirmed by staff that within the last six months, the Architectural Committee meeting agendas have approved single-family projects with four or more bathrooms. The applicant also noted that rear yard access from a master

bedroom is common in single-family residences and asked that the Planning Commission consider allowing an exterior access to the rear yard for one master bedroom on the ground floor. The applicant has confirmed that they have followed through with the early termination of agreement with the property manager operating the short-term rental. 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.

### **City's Design Guidelines**

The proposed design of the new two-story residence is consistent with the City's Single-Family Design Guidelines as noted in the following supporting findings:

- 1) *That any off-street parking area, screening strips and other facilitates and improvements necessary to secure the purpose and intent of this title and the general plan of the City area a part of the proposed development, in that;*
  - The development provides two covered parking spaces on site with adequate driveway access.
- 2) *That the design and location of the proposed development and its relation to neighboring developments and traffic is such that it will not impair the desirability of investment or occupation in the neighborhood, will not unreasonably interfere with the use and enjoyment of neighboring developments, and will not create traffic congestion or hazard, in that;*
  - Public streets are adequate in size and design to serve the proposed single-family residence, and the use will not create a substantive increase in traffic.
  - Construction of a new single-family home will enhance the property and the neighborhood.
- 3) *That the design and location of the proposed development is such that it is in keeping with the character of the neighborhood and is such as not to be detrimental to the harmonious development contemplated by this title and the general plan of the City, in that;*
  - The Project Site is in a neighborhood with predominately ranch styles homes that are one- and two-story in height.
  - The new two-story ranch style residence is in keeping within the scale and general building form of other residences in the neighborhood.
- 4) *That the granting of such approval will not, under the circumstances of the particular case, materially affect adversely the health, comfort or general welfare of persons residing or working in the neighborhood of said development, and will not be materially detrimental to the public welfare or injuries to property or improvements in said neighborhood, in that;*
  - The project would be subject to the California Building Code and City Code requirements.
  - All second-story windows on the sides of the building have a minimum five-foot window sill height to prevent privacy concerns for adjacent neighbors.
  - The proposed balcony in the rear incorporate a five-foot solid wall on the south side to prevent privacy concerns for the adjacent neighbor to the south.
- 5) *That the proposed development, as set forth in the plans and drawings, are consistent with the set of more detailed policies and criteria for architectural review as approved and updated from time to time by the City Council, which set shall be maintained in the planning division office. The policies and criteria so approved shall be fully effective and operative to the same*

*extent as if written into and made a part of this title, in that;*

- The City's Design Guidelines require second floor area to not exceed 66% of the first floor area; the proposed second floor is 53% of the first floor and it is compatible in scale and form with other residences in the neighborhood.

### **Zoning Ordinance Consistency**

The subject property is in an R1-6L, Single-family Zoning District, which is intended to stabilize and protect the residential characteristics of the district and to promote and encourage a suitable single-family residential environment. This zone and other residential zoning districts do not regulate the total number of bedrooms, bathrooms or exterior access. Further, the City has no land use regulations currently limiting short term rental activity. Regulations are being proposed with the Zoning Code Update to address this land use activity. The first hearing is tentatively scheduled to be heard by the City Council in early 2020.

Although the Architectural Committee and Planning Commission have the discretion to reduce number of bedroom, bathroom, and exterior access, and have done so in the past, it is also not an uncommon Architectural Committee approval of residences with four or more bathrooms and an exterior access for at least one ground-floor master bedroom. Common community concerns for residences with four or more bathroom and excess exterior access is the potential for higher volume rental or partition of isolated units. Considering the physical structure and floor plan, 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 intent of the Single-family Zoning District. With the exterior access reduced, the proposed accesses are limited to a sliding door in a ground-floor master bedroom to the rear yard, a sliding door from the family room to the rear yard, a door in the garage to the side yard, and the main front entrance. The floor plan for the ground floor is designed with an open concept without the common areas partitioned in a closed space. Common areas are primarily on the ground floor and occupies about 40% 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. The overall floor plan function as a single-family home from the spatial design.

### **Conclusion**

Approval of the proposed two-story residence with five bedrooms, four and a half bathrooms, 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 as other residences in the neighborhood. The property owner worked with staff and the community to address exterior modifications for neighborhood compatibility and privacy concern. Upon request of the community, the property owner ended the short-term rental in advance of the contract deadline. Single-family residence with four and half bathrooms for a five bedrooms home is not an unusual single-family floor plan. The floor plan primarily remains the same with an open layout concept for the common space on the ground floor and majority of the bedrooms upstairs. The proposal will provide an attached two-car garage similar to other residences in the area.

The concerns raised about this property's practice of high-volume short-term rental activity are best regulated by proposed ordinance changes with the Zoning Code Update to address this activity. Further the applicant has 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 may 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 Planning Commission sustain the applicant's appeal and modify the Committee's June 19, 2019 decision.

### **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).

### **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**

On August 2, 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. Sustain the appeal and modify the decision of the Architectural Committee on June 19, 2019 to allow five bedrooms and four and half bathrooms with an exterior access for Bedroom #1.
2. Overrule the appeal and uphold the decision of the Architectural Committee on 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**

1. Sustain the appeal and modify the decision of the Architectural Committee on June 19, 2019 to allow five bedrooms and four and half bathrooms with an exterior access for Bedroom #1.

Prepared by: Steve Le, Assistant Planner

Reviewed by: Diana Fazely, Deputy City Attorney

Approved by: Reena Brilliot, Planning 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. Excerpt of Architectural Committee Meeting Minutes of June 19, 2019
6. Architectural Committee Staff Report of June 19, 2019
7. Public Comments Received to 8.2.2019
8. Development Plans with Revisions
9. Resolution to Sustain Architectural Committee Approval

