

.CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 E. Santa Clara Street  
San José, California 95113

Hearing Date/Agenda Number  
P.C 10/26/05 Item No.: 4.e.

File Number  
SP02-006

Application Type  
Special Use Permit

Council District  
3

Planning Area SNI  
Central Five Wounds/Brookwood Terrace

Assessor's Parcel Number(s)  
472-08-108

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: John Davidson

Location: East side of McLaughlin Avenue, approximately 250 south of Appian Lane

Gross Acreage: 0.18

Net Acreage: 0.18

Net Density: 6 DU/AC

Existing Zoning: R-1-8 Residence

Existing Use: Single Family Residence

Proposed Zoning: No change

Proposed Use: Special Use Permit to legalize the addition of a 200 square foot garage space and a half-bathroom to an existing 770 square foot detached garage

### GENERAL PLAN

Completed by: JED

Land Use/Transportation Diagram Designation  
Medium Density Residential (8-16 DU/AC)

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JED

North: Single-family detached residential

R-1-8 Single-Family Residence

East: Single-family detached residential

R-1-8 Single-Family Residence

South: Single-family detached residential

R-1-8 Single-Family Residence

West: Single-family detached residential

R-1-8 Single-Family Residence

### ENVIRONMENTAL STATUS

Completed by: JED

Environmental Impact Report adopted  
 Negative Declaration circulated on  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete  
 Addendum to EIR

### FILE HISTORY

Completed by: JED

Annexation Title: McLaughlin No. 18

Date: February 1, 1986

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision to Deny

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

Action  
 Recommendation

### OWNER

Maria Teresa Snyder  
730 McLaughlin Avenue  
San Jose, CA 95116

### CONTACT

Angelica Lopez  
720 McLaughlin Avenue  
San Jose, CA 95116

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: JED

Department of Public Works

- None received.

Other Departments and Agencies

- See the attached memos from the Fire Department.

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GENERAL CORRESPONDENCE

- None.

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ANALYSIS AND RECOMMENDATIONS

## **BACKGROUND**

The applicant, Angelica Lopez, is appealing the Planning Director's decision to deny a Special Use Permit to allow to legalize the addition of a 200 square foot garage space and a half-bathroom to an existing 770 square foot detached garage on an existing single-family lot located on the east side of McLaughlin Avenue, approximately 250 south of Appian Lane (730 McLaughlin Avenue). The Zoning Ordinance requires a Special Use Permit for accessory structures larger than 650 square feet in Residential Zoning Districts. The addition and half bathroom were built without the benefit of permits. The subject 0.18 gross acre site is surrounded by single-family detached residential uses to the north, south, east and west. The Director of Planning denied this application on August 26, 2005, because the project exceeds the Zoning Ordinance standards for lot coverage and number of plumbing connections allowed in an accessory building. The applicant appealed the Planning Director's decision on September 6, 2005.

## **Project Description**

If the Planning Director's decision is overturned, the proposed Special Use Permit would legalize the existing 200 square foot addition and half-bathroom addition, containing a sink and a toilet, to the existing detached garage. The existing detached garage is 770 square feet in size, and contains a recreation room with three plumbing connections, including a water heater, washer, and wet bar.

## **ANALYSIS**

The primary issue regarding this proposal is conformance with the City's Zoning Ordinance.

### *Lot coverage*

The Zoning Ordinance, in Code Section 20.30.510, prescribes a maximum rear yard coverage for accessory buildings of 30% of the rear yard area. The rear yard of a lot is defined in Zoning Code Section 20.200.1390 as the yard which extends across the full width of the lot, and extends from the rear property line to the rear wall of the primary building. Using that definition, the width of the rear yard of the subject lot is 74 feet and the depth of the rear yard is 33 feet, 9 inches. The area of the rear yard is approximately 2,500 square feet. The proposed 970 square foot detached garage covers 38% of the rear yard area.

Given the lot coverage maximum, the largest possible accessory unit that could be permitted under the current Zoning Ordinance on the subject lot is 750 square feet in area. There is no provision in the Special Use Permit process to permit an accessory building with a lot coverage greater than 30%.

### *Plumbing Fixtures*

Per the definition of Accessory Building, Code Section 20.200.020, accessory buildings are allowed to have a maximum of two (2) plumbing connections. The intent of this provision is to prevent detached garages from being used for separate living quarters. The proposed detached garage includes five (5) plumbing connections: sink, toilet, wet bar, washer, and water heater. There is no Zoning Ordinance process for allowing more than two plumbing connections in an accessory building.

This project, to legalize an unpermitted addition to a garage, does not meet the requirements of the Zoning Code. There are no provisions in the Zoning Code to allow the legalization of these unpermitted additions. The applicant was apprised of this on March 11, 2002, 25 days after her application for a permit. As a part of this written response, Planning staff requested that the applicant revise her plans to conform to the Zoning Code, so that the project could be approved. To date, the applicant has not provided any revisions to her plans.

### **General Plan Conformance**

The General Plan Land Use/Transportation Diagram designation for the site is Medium Density Residential (8-16 DU/AC). The existing and proposed density for the site is 6 DU/AC. The project conforms to the General Plan in that any developed parcel two acres or less in size is deemed to be in conformance with the General Plan, regardless of how it is designated.

### **Environmental Review**

The Director of Planning, Building, and Code Enforcement has determined that the proposed project is exempt under Section 15301 of the State's CEQA Guidelines, in that the proposed addition is an addition to an existing structure and the proposed floor area is less than 50% of the size of the existing floor area.

### **PUBLIC OUTREACH**

Notices of the public hearing for this project were sent to all property owners within 300 feet of the subject property for both the Planning Director's Hearing held on August 10, 2005, and for this appeal to the Planning Commission. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with members of the public.

### **RECOMMENDATION**

The Planning staff recommends that the Planning Commission **uphold the denial** by the Planning Director of the Special Use Permit and include the following facts, findings, and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Density Residential (8-16 DU/AC) on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The project site at 730 McLaughlin Avenue is located in the R-1-8 Single-Family Residence District.
3. The project site is 0.18 acres in area.
4. The site is currently developed with a single-family residence and a 970 square foot accessory structure, to which a 200 square foot storage room and a half-bathroom were added without benefit of permits.
5. Under the provisions of Section 20.30.500 of the San José Municipal Code, accessory structures larger than 650 square feet may be approved only under a Special Use Permit.
6. Under the provisions of Section 15301 (I)(4) of the CEQA Guidelines this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970 (CEQA), as amended. The project will not have a significant adverse effect on the environment.
7. Section 20.30.510 (Rear Yard Coverage for Accessory Buildings) allows accessory buildings to cover a maximum of 30% of the rear yard area.
8. The rear yard of a lot is defined in Zoning Code Section 20.200.1390 as the yard which extends across the full width of the lot, and extends from the rear property line to the rear wall of the primary building.
9. The width of the rear yard of the subject lot is 74 feet and the depth of the rear yard is 33 feet, 9 inches. The area of the rear yard is approximately 2,500 square feet.
10. The detached garage covers 38% of the rear yard area.
11. Given the lot coverage maximum, the largest possible accessory unit that could be permitted under the current Zoning Ordinance on the subject lot is 750 square feet in area.
12. Section 20.200.020 (definition of Accessory Building) allows no more than two (2) plumbing connections to serve an appliance or fixture.
13. Staff communicated the project's non-conformance with Zoning Code accessory structure development regulations (rear yard coverage and plumbing connections) in a letter dated March 11, 2002.
14. Despite follow-up letters and phone calls from staff to the applicant, the applicant has not responded to or resolved the issues as identified in the March 11, 2002 letter.

## FINDINGS:

The Planning Commission, based on the factual findings above, concludes the following:

1. The project is consistent with the General Plan/Transportation Land Use Diagram designation of Medium Density Residential (8-16 DU/AC).
2. The project does **not** comply with the applicable provisions of the Zoning Ordinance, Title 20 of the Municipal Code.
3. The proposed project is in compliance with the California Environmental Quality Act (CEQA).

Finally, based upon the above stated findings, the Director finds that:

1. The interrelationship between the orientation, location and elevations of the proposed buildings and structures and other uses on-site are **not** mutually compatible and aesthetically harmonious, in that:
  - a. The proposed garage/storage room exceeds the maximum 30% rear yard coverage for accessory buildings.
2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are **not** compatible and aesthetically harmonious with adjacent development or the character of the neighborhood, in that:
  - a. The proposed project does not conform to the Zoning Code, in that the accessory building does not meet maximum 30% rear yard coverage requirement, and the lot is overbuilt compared to neighboring lots.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that, under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment, because the project involves a minor addition to a detached accessory structure.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities **do not** maintain or upgrade the appearance of the neighborhood in that:
  - a. The project proposes more than two (2) plumbing fixtures in a detached accessory structure, contrary to Zoning Code limitations on accessory buildings.
5. This site has a designation of Medium Density Residential (8-16 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram and this application is consistent with this designation.

Finally, based upon the above stated findings, the Planning Commission **upholds the denial** by the Director of Planning of the proposed application.