



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** August 19, 2020

**TO:** Hearing Officer

**SUBJECT:** Minor Conditional Use Permit #6834

**LOCATION:** 1915 Newport Avenue

**APPLICANT:** Kenya Lee

**ZONING DESIGNATION:** RS-6 (Single-Family Residential, 0-6 dwelling units per acre)

**GENERAL PLAN DESIGNATION:** Low Density Residential

**CASE PLANNER:** Carlos Chacon

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Minor Conditional Use Permit #6834 with the conditions in Attachment B.

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**PROJECT PROPOSAL:** Minor Conditional Use Permit: To allow the enlargement of a nonconforming two residential dwelling unit property. The project includes additions totaling 628 square feet to two existing dwelling units, and the construction of two 306 square-foot two-car carports. The subject site is nonconforming because it is developed with two residential dwelling units, and located within the RS-6 (Single-Family Residential) zoning district, where the Zoning Code allows for one dwelling unit. A Minor Conditional Use Permit is required for an expansion and/or alteration of a legally established non-conforming use.

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b) (9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, (Existing Facilities), and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15301 exempts additions to existing structures, provided the additions will not result in an increase of more than 10,000 square feet, where the project is in an area where all public services and

facilities are available to allow for maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive.

**BACKGROUND:**

**Site characteristics:** The subject site is a 7,214 square-foot (0.16 acres) parcel located on the west side of Newport Avenue, south of Wyoming Street and north of Idaho Street. The site is improved with two, attached multi-family duplex. The 1,424 square-foot duplex was constructed in 1924.

**Adjacent Uses:** North – Single-Family Residential  
South – Single-Family Residential  
East – Single-Family Residential  
West – Single-Family Residential

**Adjacent Zoning:** North – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
South – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
East – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
West – LASP-RM-16 (Lincoln Avenue Specific Plan, Medium Density Residential -16 dwelling units per acre)

**Previous zoning cases on this property:** V# 2215 – To allow a duplex within a Zone E. (September 27, 1927).

**PROJECT DESCRIPTION:**

The applicant, Kenya Lee, has submitted a Minor Conditional Use Permit application to allow the enlargement of a nonconforming use. The subject site is located within the RS-6 (Single-Family Residential, 0-6 dwelling units per acre) zoning district, and is developed with two attached residential dwelling units (i.e. duplex), where the Zoning Code currently allows for one dwelling unit. A nonconforming use may not be altered or enlarged unless a Minor Conditional Use Permit is first obtained.

The proposed project includes a 314 square-foot addition at the rear of each unit, for a total of 628 square feet for the duplex. The project also includes the construction of two 306 square-foot two-car carports, totaling 612 square feet, one attached to the rear of the addition and one detached at the rear of the site. No trees are proposed for removal as a part of the project.

**ANALYSIS:**

A nonconforming use is defined as a use of a structure (either conforming or nonconforming) or land that was legally established and maintained before the adoption of this Zoning Code and which does not conform to current Code provisions governing the allowable land uses for the zoning district in which the use is located.

The subject site is located with the RS-6 zoning district, which allows for one single-family residence per lot. According to the City's permit records, the site is improved with a duplex with a

total of 1,424 square feet, legally constructed in 1924. As such, the land use of the site with two dwelling units is considered legal nonconforming.

Section 17.71.080(E) of the Zoning Code states that a nonconforming use may not be altered or enlarged unless a Minor Conditional Use Permit is first obtained, in compliance with Section 17.61.050. The Minor Conditional Use Permit application allows the City to review the project and determine if the proposed enlargement would be compatible with the surrounding area. In order to approve a Minor Conditional Use Permit, six findings must be made in the affirmative. These findings relate to project conformance with the Zoning Code and General Plan, potential project impacts on the surrounding properties, and compatibility with the surrounding uses.

The proposed enlargement to the nonconforming use must comply with the development standards of the applicable zoning district. In this case, the project has been analyzed to determine its compliance with the applicable development standards of the RS-6 zoning district, regardless of the number of dwelling units on the site. That analysis has concluded that as proposed, the project would comply with applicable development standards of the Zoning Code, as demonstrated below.

#### *Maximum Allowable Floor Area*

Pursuant to Section 17.22.040 Table 2-3 (RS and RM-12 Residential Districts General Development Standards), in the RS-6 zoning district, the maximum allowable gross floor area for a lot with less than 12,000 square feet in area is 30 percent of the lot area plus 500 square feet. Gross floor area is defined as the floor area between the floor and roof above it, measured from the outside edge of the exterior walls of the main structure and all accessory structures, including required parking (either garage or carport).

The subject site is 7,214 square feet in area, thus the maximum allowable gross floor area is 2,664 square feet. The existing floor area is 1,424 square feet. The project includes additions totaling 628 square feet to both dwelling units, and two 306 square-foot two-car carports, one attached to the rear of the addition and one detached at the rear of the site. As proposed, the total floor area of all structures on the site would be at the maximum of 2,664 square feet, which is in conformance with the maximum allowable floor area requirement.

#### *Maximum Site Coverage*

In addition to the maximum allowable gross floor area, single-family residential properties are subject to site coverage. Site coverage is defined as the percentage of a site covered by roofs, soffits or overhangs extending more than three feet from a wall, and by decks more than four feet in height. As prescribed in the Zoning Code, the maximum allowable site coverage for a site less than 12,000 square feet in area is 35 percent or up to 40 percent, provided any additional coverage over 35 percent shall be single-story only.

The site is 7,214 square feet in area, which allows for a maximum allowable site coverage of 2,885 square feet. The total proposed site coverage is 2,720 square feet, which includes the existing dwelling units, porches, the additions, and the proposed carports. Therefore, as proposed the project complies with the maximum allowable site coverage.

#### *Setbacks*

The minimum required front setback is the average of the front setbacks of the developed lots on the block-face, but not less than 25 feet, as provided in Section 17.22.050 of the Zoning Code. In

calculating the block-face average, the measurement shall be from the front property line to the principal structure. Building projections (such as eaves or bay windows) and unenclosed porches shall not be used as the reference point for this measurement. The existing front yard setback is measured at 25 feet-1 inch. The project as proposed does not include any additions to the front of the property; therefore the existing front yard setback will remain unchanged.

The required side setback is equal to 10 percent of the lot width, with a minimum requirement of five feet and a maximum requirement of ten feet. The lot width is 50 feet, resulting in a minimum side setback of five feet.

The addition is located at the rear of the duplex observing a 6-foot side yard setback on the southern property line and an 11-foot 9-inch setback on the northern property line. Therefore, as proposed the side setbacks for the additions comply with the minimum side setback requirement.

The minimum required rear setback is 25 feet. The proposed addition will be to the rear of the existing duplex which currently has a 70-foot 4-inch setback. After the addition, the setback will be 50 feet 9 inches, which complies with the minimum rear setback requirement.

### *Encroachment Plane*

Principal structures located within the RS-6 zoning district, may not to be located within an encroachment plane that slopes upward and inward at a 30-degree angle. The plane commences at a point six feet above existing grade along the side property lines. The intent of the encroachment plane standard is to moderate the mass and scale of structures and maintain desired neighborhood character. Plans provided by the applicant depict the encroachment plane and demonstrate the additions to both dwelling units comply with the encroachment plane requirement.

### *Height*

Pursuant to Section 17.22.040 Table 2-3 of the Zoning Code, a property located within the RS-6 zoning district, with a lot width of less than 75 feet, is limited to a maximum height of 28 feet. The plans demonstrate that the duplex would maintain a height of 14 feet throughout the addition. Therefore, the project complies with the maximum allowable building height.

### *Parking*

Pursuant to Section 17.46.040 Table 4-6 of the Zoning Code, the parking requirement for a multi-family residential land use is two covered parking spaces for each dwelling unit over 650 square feet in size, and one covered parking space for each dwelling unit less than 650 square feet. After the proposed additions, each unit would exceed the 650 square foot threshold; therefore, four covered parking spaces would be required. Access to the site is currently and will continue to be provided, from the rear of the site, where the property owner has an existing reciprocal access easement via a private driveway accessed from Wyoming Street.

The subject site currently does not have any covered parking. However, the project proposal includes the construction of two 306 square-foot two-car carports at the rear of the site, one detached and one attached to the rear of the proposed addition. Therefore, as proposed the subject site would be in compliance with minimum parking requirements.

### *Accessory Structure Placement*

Pursuant to Section 17.50.250(D)(2) of the Zoning Code, an accessory (i.e. detached) structure may be located in a required side or rear setback; provided it is more than 100 feet from the front property line or in the rear 25 feet of the site. Otherwise, the minimum required setbacks of the primary structure shall also apply to the accessory structure.

The proposed 612 square feet of covered parking would be constructed as two 306 square-foot two-car carports, one attached to the rear of the addition and one detached at the rear of the site. The detached two-car carport was analyzed as an accessory structure and would be constructed 118 feet 6 inches from the front (east) property line, 10 feet from rear (west) property line, 6 feet from the south side property line, and 26 feet from the north property line.

Pursuant to section 17.50.250(E)(2), in order to prevent an excessive amount of structure located along a property line, the maximum horizontal length of an accessory structure that can be located less than five feet from a side or rear property line is limited to 22 feet. An accessory structure must maintain a minimum separation of six feet, eave to eave, from any other structure on the site. The proposed detached structure would be constructed more than five feet from the side and rear property lines, and therefore complies with this code requirement.

Furthermore, pursuant to Section 17.50.250(H)(2), a carport shall only be located behind the main structure and not visible from a public right-of-way, and shall not be allowed on a corner lot. The proposed carports will be located behind the rear wall plane of the units and will not be visible from the public right-of-way.

### *Accessory Structure Height*

Pursuant to Section 17.50.250(E) of the Zoning Code, the top plate height for an accessory structure shall not exceed nine feet and the overall maximum height is 15 feet. The proposed top plate height of the proposed two-car carport would be 9 feet, with an overall height of 9 feet 6 inches. Therefore, as proposed the detached carport heights comply with the maximum allowable top plate and overall structure height.

### *Accessory Structure Floor Area*

Pursuant to Section 17.50.250(G) of the Zoning Code, the maximum size of all accessory structures on a site shall not exceed an aggregate of 600 square feet or six percent of the lot size, whichever is greater. Based on the lot size of 7,214 square feet, the maximum allowable aggregate size of all accessory structures is 600 square feet. All other accessory structures shall be counted in the calculation of the maximum allowable size including carports, gazebos, or covered patios or porches. The proposed detached 306 square-foot two-car carport would not exceed the 600 square feet.

### Tree Protection Ordinance

Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance) establishes standards for the protection and removal of protected trees on private property. The tree inventory and plan submitted by the applicant identified three trees, one citrus lemon tree located on site and two Coast Live Oaks located within the public right-of-way. The citrus tree is not protected. Both of the trees identified on the public right of way qualify for protection as defined in the City's Tree Protection Ordinance, as determined by species, size, and location on the property. No protected trees are proposed to be removed as part of this project.

## **GENERAL PLAN CONSISTENCY:**

The subject site is improved with two dwelling units (duplex) constructed with permits in 1924. The site is designated as Low Density Residential in the General Plan Land Use Element. General Plan Land Use Policy 21.5 (Housing Character and Design) encourages the renovation of existing housing stock in single- and multi-family neighborhoods, which should reflect the unique neighborhood character and qualities; building form, scale, and massing; and, architectural design. The project scope includes a 628 square-foot addition to the rear of the duplex and two 306 square foot two-car carports, which is not visible from the public right-of-way. Therefore, the project would not affect the scale and massing of the site. The use of the site would remain as two dwelling units on one lot and the project would maintain the unique character and design of the residential neighborhood as the addition is not visible from the street and remains consistent with the City's General Plan.

## **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b) (9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, (Existing Facilities), and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15301 exempts additions to existing structures, provided the additions will not result in an increase of more than 10,000 square feet, where the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive.

## **REVIEW BY OTHER DEPARTMENTS:**

The proposed project was reviewed by the Building Division, Fire Department, Department of Transportation, Public Works Department, and Design and Historic Preservation Section. Based on their review of the project, the Public Works Department provided comments and recommended conditions of approval, which have been incorporated in Attachment B of this staff report. The remaining departments had no comments and would review the plans through building permit plan check process.

## **CONCLUSION:**

It is staff's assessment that the findings necessary for approval of the Minor Conditional Use Permit can be made. The proposed project meets all applicable development standards required by the Zoning Code. The project would maintain the existing nonconforming use and would not result in the creation of any new dwelling unit onsite. Therefore, staff recommends that the Hearing Officer approve the Minor Conditional Use Permit subject to the Findings in Attachment A and recommended Conditions of Approval in Attachment B.

## **ATTACHMENTS:**

Attachment A: Minor Conditional Use Permit Findings  
Attachment B: Recommended Conditions of Approval

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR MINOR CONDITIONAL USE PERMIT #6834**

Minor Conditional Use Permit –To allow the enlargement of a nonconforming use

1. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district, but does not comply with all applicable provisions of this Zoning Code.* The enlargement of a nonconforming use is permitted through the approval of a Minor Conditional Use Permit as provided in Section 17.71.080(E) of the Zoning Code. The proposed project will comply with all applicable development standards required for the RS-6 zoning district, with respect to height, setbacks, floor area, lot coverage, and parking.
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* The purpose of the RS-6 zoning district is to ensure adequate light, air, privacy, and open space for each dwelling and to protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects. The project consists of additions to a nonconforming use and may be permitted with the approval of a Minor Conditional Use Permit. As proposed, the project is in compliance with all applicable development standards of the RS-6 zoning district, and the number of existing dwelling units will remain unchanged.
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* The subject site is improved with two dwelling units constructed with permits in 1924. The site is designated as Low Density Residential in the General Plan Land Use Element. General Plan Land Use Policy 21.5 (Housing Character and Design) encourages the renovation of existing housing stock in single- and multi-family neighborhoods, which should reflect the unique neighborhood character and qualities; building form, scale, and massing; and, architectural design. The project scope includes a 628 square-foot addition to the rear of the duplex and two 306 square foot two-car carports, which would not be visible from the public right-of-way. Therefore, the project would not affect the scale and massing of the site. The use of the site would remain as two dwelling units on one lot and the project would maintain the unique character and design of the residential neighborhood as the addition is not visible from the street and remains consistent with the City's General Plan.
4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.* The project scope includes a 628 square-foot addition to the rear of the duplex and two 306 square foot two-car carports, one attached to the rear of the addition and one detached two-car carport at the rear of the property, both of which are not visible from the public right-of-way. The use of the site will remain as two dwelling units on a lot within a single-family residential zoning district. The project will not result in any new dwelling unit onsite. The additions and carports will not be visible from public right-of-way views, therefore will not be detrimental to the health, safety, or general welfare of the persons residing or working in the neighborhood. The improvements will be required to adhere to all requirements as they relate to the Zoning, Fire, and Building and Safety codes.
5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* The project as proposed will result in additions to the two existing units onsite and will not result in any new units added to the site. The existing residential structure was constructed in 1924,

prior to the adoption of the RS-6 zoning district, resulting in a legal nonconforming status of the site. The additions will be required to comply with all zoning, building, and fire codes which will be reviewed through the building permit plan check process and is designed to not be detrimental or injurious to the surrounding residential uses.

6. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The subject site is designated as Low Density Residential in the General Plan Land Use Element. The 628 square-foot addition to the rear of the duplex and two 306 square foot two-car carports, one attached to the rear of the addition and one detached two-car carport at the rear of the property, will not increase the number of residential units on the subject site. The site will remain consistent with the existing and future uses within the residential neighborhood, as the proposed additions have been designed in compliance with the development standards applicable to the subject site and uses in the vicinity.

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR MINOR CONDITIONAL USE PERMIT #6834**

The applicant or successor in interest shall meet the following conditions:

General

1. The site plan, floor plan, elevations, and building sections, submitted for building permits shall substantially conform to plans stamped “Approved at Hearing, August 19, 2020”, except as modified herein.
2. The right granted under this application must be enacted within 36 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions – Extensions of Time).
3. The approval of the Minor Conditional Use Permit allows a 628 square-foot addition to the rear of the duplex, a 306 square-foot attached two-car carport, and a 306 square-foot detached two-car carport at the rear of the site.
4. The applicant or successor in interest shall meet the applicable code requirements of all City Departments.
5. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
6. The proposed project, Activity Number **PLN2020-00182** is subject to the Inspection Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact Carlos Chacon, Current Planning Section, at (626) 744-7123 to schedule an inspection appointment time.

Planning Division

7. The applicant shall comply with all requirements of the Zoning Code, including the applicable development standards provided in Chapter 17.22 (Residential Zoning Districts), and Section 17.50.250 (Residential Uses – Accessory Uses and Structures).
8. Any above ground mechanical equipment shall be located at least five feet from all property lines and shall comply with the screening requirements of Section 17.40.150 (Screening) of the Zoning Code.
9. The project shall comply with the Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance). A tree inventory, protection, retention plan shall be submitted to the Zoning Administrator for approval prior to the issuance of any building or grading permits. Any proposal to remove a protected tree requires approval of a Tree Removal Application prior to the issuance of building permits.
10. The applicant or successor in interest shall comply with all requirements of Municipal Code Chapter 9.36 (Noise Restrictions). Specifically, all construction activities shall adhere to Municipal Code Section 9.36.070 (Construction Projects) and Section 9.36.080 (Construction Equipment).

11. At no time shall construction activities, including, but not limited to, construction materials, vehicles and equipment, obstruct access to vehicular driveways of adjacent properties.

Public Works Department

12. The applicant shall protect all existing public facilities and maintain the right of way in good clean condition during the construction. If any damage is proven to be caused by the subject development, the applicant is responsible for replacing and/or repairing the facilities to the satisfaction of the City, prior to the issuance of Certificate of Occupancy.
13. A closed circuit television (CCTV) inspection of the house sewer serving the property shall be performed and a CCTV inspection video submitted to the Department of Public Works for review. At the time of the video submittal, a non-refundable flat fee, per the current General Fee Schedule, shall be placed by the applicant to cover the staff cost of video review. The house sewer inspection shall include footage from the private cleanout to the connection at public sewer main, with no or minimum flow in the pipe during the televising. The property address, date of inspection, and a continuous read-out of the camera distance from the starting point shall be constantly displayed on the video. The applicant shall correct any defects revealed by the inspection. Defects may include, excessive tuberculation, offset joints, excessive root intrusion, pipe joints that can allow water infiltration, cracks, and corrosion or deterioration of the pipe or joint material, damaged or cracked connection to the sewer main, or other defects as determined by the City Engineer. The method of correction of the defects shall be subject to the approval of the City Engineer, and may include partial or total replacement of the house sewer, or installation of a structural or non-structural pipe liner. The applicant shall be responsible for all costs required to obtain the CCTV inspection of the existing sewer connection, and if required, to correct the defects.
14. In addition to the above condition, the requirements of the following ordinances may apply to the proposed project:

- a. Sewer Facility Charge - Chapter 4.53 of the PMC

The ordinance provides for the sewer facility charge to ensure that new development within the city limits pays its estimated cost for capacity upgrades to the city sewer system, and to ensure financial solvency as the city implements the operational and maintenance practices set forth in the city's master sewer plan generated by additional demand on the system. Based on sewer deficiencies identified in the City's Master Sewer Plan, the applicant may be subject to a Sewer Facility Charge to the City for the project's fair share of the deficiencies. The Sewer Facility Charge is based on the Taxes, Fees and Charges Schedule and will be calculated and collected at the time of Building Permit Issuance.

- b. Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)

In accordance with Section 12.04.035, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged curb, gutter and sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy in accordance with Section 12.04.031, entitled "Inspection required for Permit Clearance" of the PMC.

c. Construction and Demolition Waste Ordinance, Chapter 8.62 of the PMC

The applicant shall submit the following plan and form which can be obtained from the Permit Center's webpage at: <https://www.cityofpasadena.net/public-works/recycling-resources/construction-demolition-recycling/construction-and-demolition-debris-recycling/> and the Recycling Coordinator, (626) 744-7175, for approval prior to the request for a permit:

- a. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the permit. A list of Construction and Demolition Recyclers is included on the waste management application plan form and it can also be obtained from the Recycling Coordinator.
- b. Summary Report with documentation must be submitted prior to final inspection.

A security performance deposit of three percent of the total valuation of the project or \$30,000, whichever is less, is due prior to permit issuance. For Demolition Only projects, the security deposit is \$1 per square foot or \$30,000, whichever is less. This deposit is fully refundable upon compliance with Chapter 8.62 of the PMC. A non-refundable Administrative Review fee is also due prior to permit issuance and the amount is based upon the type of project.