



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** September 1, 2021

**TO:** Hearing Officer

**SUBJECT:** Minor Conditional Use Permit #6889

**LOCATION:** 1021-1023 Palm Terrace

**APPLICANT:** Derek Ryder

**ZONING DESIGNATION:** RS-6-LD-4 (Single-Family Residential, 0-6 dwelling units per acre, Washington Square Landmark Overlay District)

**GENERAL PLAN DESIGNATION:** Low Density Residential

**CASE PLANNER:** Emma Carrico

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Minor Conditional Use Permit #6889 with the conditions in Attachment B.

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**PROJECT PROPOSAL:** Minor Conditional Use Permit: To allow the expansion of a legal nonconforming use. The project includes additions to the rear residential unit totaling 413 square feet and construction of a new 448 square foot detached garage. The subject site is nonconforming because it is developed with two residential dwelling units where only one dwelling unit per lot is currently permitted. 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 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. Further, the proposed alterations will not be visible

from the street, and will not result in a substantial adverse change to a historic resource.

**Site characteristics:** The subject site is a 14,294 square foot (0.33 acres) parcel located on the west side of Palm Terrace, south of Belvidere Street and north of Mountain Street. The site is improved with two detached single-family residences and a single car garage serving the front residence with access via Palm Terrace. The rear residence was constructed in 1917 and the front residence 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-LD-4 (Single-Family Residential, 0-6 dwelling units per acre, Washington Square Landmark Overlay District)  
South – RS-6-LD-4 (Single-Family Residential, 0-6 dwelling units per acre, Washington Square Landmark Overlay District)  
East – RS-6-LD-4 (Single-Family Residential, 0-6 dwelling units per acre, Washington Square Landmark Overlay District)  
West – RS-6-LD-4 (Single-Family Residential, 0-6 dwelling units per acre, Washington Square Landmark Overlay District)

**Previous zoning cases on this property:** None

**PROJECT DESCRIPTION:**

The applicant, Derek Ryder, has submitted a Minor Conditional Use Permit application to allow the expansion of a legal nonconforming use. The project includes a one-story addition to the rear residence totaling 413 square feet, as well as the construction of a 448 square foot detached garage at the rear of the site, which will have access via the Gladys Court alleyway. The subject site is nonconforming because it is developed with two residential dwelling units in the RS-6-LD-4 (Single-Family Residential) zoning district, where only one dwelling unit per lot is currently permitted. A Minor Conditional Use Permit is required for an expansion and/or alteration of a legally established non-conforming use.

The proposed addition would result in a new kitchen and provide for remodeled living and dining areas. Additional bedroom and bathroom space would also be provided. The new detached garage located to the rear of the property would provide two additional covered parking spaces for the residence.

**ANALYSIS:**

Minor Conditional Use Permit

A nonconforming use is defined as a use of a structure or land that was legally established and maintained prior to the adoption of the current zoning code and which does not conform to current code provisions governing allowable land uses for the zoning district in which the use is located.

The subject site is located within the RS-6-LD-4 zoning district, which allows for one single-family residence per lot. According to the City's permit records, the site is legally developed with two detached single-family residential dwelling units and a single car garage serving the front residence. As such, the existing land use on the site 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 establishes a process to review the project and determine if the proposed expansion would be compatible with the surrounding area. In order to approve a Minor Conditional Use Permit, the Hearing Officer must make six findings 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 expansion of the nonconforming use must comply with the development standards of the applicable zoning district. The project has been analyzed to determine compliance with the applicable development standards of the RS-6 zoning district, regardless of the number of dwelling units on the site. The project would comply with applicable development standards, as demonstrated below.

Development Feature		Requirement	Proposed Project	Analysis
<b>RS-6 – General Development Standards; Residence</b>				
Density (0-6 du per acre)		one dwelling unit per lot	two dwelling units	Existing
Maximum Allowable Floor Area Ratio		20% of lot size + 1,700 sf; 4,559sf	4,193 sf	Complies
Maximum Allowable Site Coverage		35% of lot size 5,003sf	4,193 sf	Complies
Minimum Setbacks	Front	25'	≈ 105'	Complies
	Rear	25'	66' 6"	Complies
	Sides	5' and encroachment plane	4'3"; to match existing (N) 20'4" (S)	Complies
Height		28', top plate 10'	16', top plate 10'	Complies
Parking		2 spaces per unit on-site	4 spaces on-site	Complies
<b>RS-6 – General Development Standards; Accessory Structure-Garage</b>				
Maximum Allowable		6% of lot size; 858 sf	857 sf	Complies
Building Separation		6'	40'7"	Complies
Minimum Setbacks	Front	25'	≈ 213'	Complies
	Rear	2' and encroachment plane	5'	Complies
	Sides	2' and encroachment plane	5' (N) 31' (S)	Complies
Height		15', top plate 9'	10'4", top plate 9'	Complies

## 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 applicant has submitted a tree inventory that identifies three public-street trees and 12 private trees on the site. Three of the private trees, all Coast Live Oaks (*Quercus agrifolia*), are protected under the City's Tree Protection Ordinance and would be retained and protected. One private non-protected tree, a 17" DBH Shamel Ash (*Fraxinus uhdei*), is proposed for removal. All other trees on private property would be retained.

## Design and Historic Preservation Analysis

The house located at the front of the property, 1023 Palm Terrace, is the primary structure, constructed in 1924, and is a contributing building to the Washington Square Landmark District. The detached garage, also visible from the street was constructed during the 1920's and is also a contributing structure to the landmark district. The secondary unit, located immediately behind the primary structure, is the original house and building on the property, constructed in 1917. This secondary unit is predominately hidden from public view by its location behind the primary structure.

Records indicate that the secondary unit has been substantially altered through the removal of original wood siding, replacement of windows with aluminum and non-original wood, the replacement of wood shake roofing with composition shingle, and incompatible additions. Due to these past alterations, staff has determined that the secondary unit is not a contributing structure to the landmark district, and the proposed alterations will not require a Certificate of Appropriateness or a Finding of Consistency with the Secretary of the Interior Standards. With the exception of the south side elevation window replacements, the proposed alterations will not be visible from the street, and will not result in a substantial adverse change to the historic resource of the landmark district. Therefore, historical review of the proposed project is not required.

### **GENERAL PLAN CONSISTENCY:**

The subject site is improved with two detached dwelling units and a single car garage, all constructed with permits. 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. Additionally, General Plan Land Use Policy 22.2 prioritizes the location and design of garages and accessory structures such that they do not dominate the appearance of a dwelling from the street. Neither the proposed detached garage nor any of the additions proposed for the rear dwelling unit would be visible from the public right-of-way. Therefore, the project would not affect the scale or massing of the site. The use of the site would remain for low density residential purposes and the unique character and design of the residential neighborhood would remain the same as is 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 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. Further, the proposed alterations will not be visible from the street, and will not result in a substantial adverse change to the historic resource.

**REVIEW BY OTHER DEPARTMENTS:**

The proposed project was reviewed by the Public Works Department, Building and Safety Division, and Design and Historic Preservation Section. The Public Works Department had no comments or conditions. The Building Division provided no comments or conditions and indicated they would review the plans through the building permit plan check process. Comments from the Design and Historic Preservation Section are provided in the analysis above; no conditions of approval were recommended.

**CONCLUSION:**

Staff has analyzed the proposed project and determined that the findings required for approval of the Minor Conditional Use Permit can be made. The proposed project meets all applicable development standards of the RS-6-LD-4 zoning district as required by the Zoning Code. The project would maintain the existing legal nonconforming use and would not result in the creation of any new nonconforming uses or structures, nor would there be an impact to any historical resource. 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 #6889**

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

1. *The proposed use is allowed with a Conditional Use Permit (Major and Minor) or Hillside Development Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code.* The proposed expansion of the legal 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 project as proposed will comply with all applicable development standards of the RS-6-LD-4 zoning district including site coverage, floor area, setbacks, building height, encroachment plane, 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 proposed addition and garage will occur at the rear unit and rear of the property and its location complies with setback, encroachment plane, and height requirements that are in place to ensure adequate light, air, and privacy around the structures. The applicable zoning district is intended for residential uses and the proposed addition will maintain the low-density residential character of the site and remain consistent with the purpose and intent of the RS-6-LD-4 zone.
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 project is not located within a specific plan area. 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. Additionally, General Plan Land Use Policy 22.2 (Garages and Accessory Structures) prioritizes the location and design of garages and accessory structures such that they do not dominate the appearance of a dwelling from the street. Neither the proposed detached garage nor any of the additions proposed for the rear dwelling unit would be visible from the public right-of-way. Therefore, the project would not affect the scale or massing of the site. The use of the site would remain for low density residential purposes and the unique character and design of the residential neighborhood would remain the same as is 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 proposed project would not result in any new dwelling units being constructed or other nonconforming uses being established. The site would continue to be used for two residential dwellings that have functioned on-site since 1924 without issue or detriment to the surrounding neighborhood. The existing residential use is consistent with the residential character of the surrounding neighborhood and the proposed improvements would comply with applicable zoning requirements. Therefore, under the circumstances of the particular case, no detrimental effects to health, safety, or general welfare are anticipated.
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 will comply with the development standards applicable to all properties and proposed improvements within the zoning district. A small existing portion of the rear dwelling on the

south side is visible from the public right-of-way, the only change proposed for this portion of the dwelling is the installation of new windows. Neither the proposed detached garage nor any of the additions proposed for the rear dwelling would be visible from the public right-of-way. Therefore, the project would not affect the existing visual character of the site. Finally, the project will remain consistent with the nature of the surrounding neighborhood and has existed since 1924 without issue.

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 surrounding properties share the same single-family zoning designation as the subject parcel. Therefore, the project's compliance with the applicable development standards will ensure compatibility with existing and future land uses in the vicinity. As detailed in the Design and Historic Preservation Division's analysis, the project will not conflict with the aesthetic character of the neighborhood or result in a substantial adverse change to the historic resource of the landmark district. The project is not located within a hillside overlay district or on a substantial slope, and will not impact any surrounding views.

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR MINOR CONDITIONAL USE PERMIT #6889**

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

General

1. The site plan, floor plan, demolition plans, elevations, and building sections, submitted for building permits shall substantially conform to plans stamped "Approved at Hearing, September 1, 2021", except as modified herein.
2. The right granted under this application must be enacted within 24 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 413 square feet of additions to the rear dwelling unit, and the construction of a new detached 448 square foot garage 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 **ZENT2021-00052** 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 Emma Carrico, Current Planning Section, at 626-744-7361 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. The applicant shall comply with the demolition plans and calculations stamped "Approved at Hearing, September 1, 2021". The applicant shall not demolish more than 50 percent of exterior walls of the existing rear dwelling. Any exterior wall demolition in excess of 50 percent may require a modification to this Minor Conditional Use Permit or a new Minor Conditional Use Permit.
9. 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.
10. 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.

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