



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: May 1, 2019

TO: Hearing Officer

SUBJECT: Minor Conditional Use Permit #6523

LOCATION: 670 Bellefontaine Street

APPLICANT: Dale Pearson

ZONING DESIGNATION: RS-4 (Single-Family Residential, 0-4 units per acre)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Nathan Gapper

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **disapprove** Minor Conditional Use Permit #6523 and the Variance and Minor Variance.

PROJECT PROPOSAL: Minor Conditional Use Permit - To allow the construction of a 1,206 square-foot accessory structure on a property with a non-conforming multi-family use (three units) within the RS-4 (Single-Family Residential 0-4 units per acre) zoning district. A Minor Conditional Use Permit is required for the alteration or expansion of a non-conforming use.

Variance - To allow an aggregate accessory structure area of 2,263 square feet, exceeding the maximum allowable 1,063 square feet (six percent of lot area).

Minor Variance - To allow a 16-foot high accessory structure, exceeding the 15-foot maximum permitted height.

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)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are

Disapproved). This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

BACKGROUND:

Site Characteristics: The subject site is a 17,717 square-foot rectangular lot with street frontage along Bellefontaine Street and is developed with three detached residential units totaling 2,936 square feet in area and a 1,080 square-foot, six-car, detached garage.

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

Adjacent Zoning: North – RS-4 (Single-Family Residential, 0-4 units per acre)
South – RS-4 (Single-Family Residential, 0-4 units per acre)
East – RS-4 (Single-Family Residential, 0-4 units per acre)
West – RS-4 (Single-Family Residential, 0-4 units per acre)

Previous Zoning Cases on This Property: Minor Conditional Use Permit #4599 to allow the addition of 229 square feet to an existing 757 square-foot, detached, multi-family residential unit located in the RS-4 (Single-Family Residential, 0-4 units per acre) zoning district. Approved with conditions on November 2, 2015.

PROJECT DESCRIPTION:

The applicant, Dale Pearson, has submitted a Minor Conditional Use Permit (MCUP) application to allow the expansion of a non-conforming use. The subject site is a 17,717 square-foot rectangular lot with street frontage along Bellefontaine Street and is developed with three detached residential units totaling 2,936 square feet in area, and a 1,080 square-foot, six-car, detached garage.

The subject property is located within the RS-4 zoning district, which allows for one single-family residence per lot. Since the property contains three existing residences, the property is considered non-conforming with regard to the use and density.

The proposed project consists of the construction of a 1,206 square-foot accessory structure in the rear of the lot between the existing residential uses and the existing detached garage. The construction of an accessory structure expanding a non-conforming use requires the review and approval of a Minor Conditional Use Permit application pursuant to Section 17.71.080.E of the Zoning Code.

Additionally, the application includes a Variance request to exceed the maximum allowable aggregate accessory structure size permitted on a property. The maximum aggregate accessory structure size permitted on a site is 600 square feet or six percent of the lot area, whichever is greater. For the subject 17,717 square-foot site, the maximum permitted aggregate accessory structure size is 1,063 square feet. The total area of the proposed 1,206 square-foot accessory structure combined with the existing 1,080 square-foot garage exceeds the maximum permitted aggregate accessory structure area by 1,223 square feet and therefore approval of a Variance is required.

Lastly, the application also includes a Minor Variance to exceed the maximum permitted height for accessory structures. An accessory structure may raise to, but shall not exceed, an overall height of 15 feet. The proposed accessory structure would be 16 feet in height, and therefore approval of a Minor Variance is required.

ANALYSIS:

Minor Conditional Use Permit – To allow the expansion of a non-conforming multi-family use within the RS-4 (Single-Family Residential, 0-4 units per acre) zoning district.

The purpose of the Single-Family Residential (RS) zoning district is to ensure adequate light, air, privacy, and open space for each dwelling and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects. In addition, Chapter 17.71 of the Zoning Code governs Non-conforming Uses, Structures, and Lots and has the express purpose “to generally discourage the long-term continuance of nonconformities” and more specifically to “limit the number and extent of specific non-conforming uses and structures that conflict with the provisions of this Zoning Code by prohibiting their reestablishment after abandonment”. The proposed project is for the construction of an accessory structure intended for use as a community room for the existing multi-family use. Therefore, the construction of the accessory structure would expand the existing, non-conforming use and would not comply with the purposes of the RS-4 zoning district, unless approved through an MCUP.

In order for a Minor Conditional Use Permit to be granted, certain findings need to be made in the affirmative. First, the project must comply with all applicable provisions of the Zoning Code. The proposed project complies with Zoning Code requirements pertaining to setbacks, lot coverage, floor area, parking, and top plate height; however, the proposed accessory structure exceeds the allowable aggregate area of accessory structures, and therefore requires a Variance. The proposed accessory structure also exceeds the allowable overall height and requires a Minor Variance. The findings for both the Variance and the Minor Variance cannot be made and therefore the proposed project does not comply with the Zoning Code.

Additionally, the use must be consistent with the purposes of the applicable zoning district. The proposed project is for the construction of an accessory structure intended for use as a community room for the existing multi-family use, as opposed to a use that would otherwise satisfy a Zoning Code requirement, such as covered parking. The accessory structure would intensify the use of the property by providing an amenity that is currently not existing, and would be contrary to the purposes of the RS-4 zoning district.

The proposed project must also be found to be consistent with the General Plan. The proposed accessory structure would exceed both the height and the allowable aggregate square footage of accessory structures on the site. Therefore, the proposed structure would not be consistent with other accessory structures in the neighborhood and not in conformance with Goal 22.0 (Single-Family Neighborhood) and Policy 22.1 (Appropriate Scale and Massing) of the General Plan. Furthermore, Goal 3, Compatible Land Uses, Policy 3.6 (Non-Conforming Uses) is designed to “encourage the replacement of non-conforming uses to achieve groupings of compatible uses that conform to the current zoning standards.” Therefore, the expansion of the existing, non-conforming use would not be consistent with the General Plan Policy to bring non-conforming uses into compliance with current zoning.

The project must also not be detrimental to property in the neighborhood or to the general welfare of the City. Allowing for the intensification of a multi-family use in a single-family residential zone compromises the preservation of the character of the neighborhood.

Finally, a finding must be made with regard to design and aesthetics. The subject site is designated as Low Density Residential in the General Plan Land Use Element. An expansion of the existing, non-conforming multi-family use of the site would not be consistent with the character of the single-family neighborhood. The height and scale of the proposed accessory structure does not comply with the Zoning Code and is not compatible with the existing and future land uses in the vicinity in terms of aesthetic value, character, and scale.

RS-4 Development Standards

An accessory structure built in 1905 previously existed on the site. In 2018, a code enforcement violation was issued for substantial reconstruction without permits and the structure was subsequently demolished. As such, the reconstruction of the accessory structure is subject to all current development standards of the RS-4 zoning district. As stated above, Chapter 17.71 of the Zoning Code is specifically intended to prohibit the reestablishment of non-conforming uses and structures after abandonment.

Floor Area:

Gross floor area is the floor area between the floor and roof above it, as measured from the outside edge of the exterior walls of the main structure and all accessory structures, including required parking (either garage or carport). Any portion of a structure, including stairwells, over 17 feet in interior height, is counted twice for purposes of computing floor area. The maximum allowable gross floor area for properties located in the RS-4 zoning district, with a lot size greater than 12,000 square feet but less than 24,000 square feet, is 20 percent of the lot size plus 1,700 square feet. For the subject 17,717 square-foot property, the maximum gross floor area permitted is 5,243 square feet. The proposed 1,206 square foot accessory structure would result in a total gross floor area of 5,222 square feet, which includes the three existing residential structures totaling 2,936 square feet and the existing, detached 1,080 square-foot, six-car, garage. The total proposed area of 5,222 square feet is less than the maximum permitted floor area of 5,243 square feet.

Lot Coverage:

Lot coverage is the percentage of the site covered by roofs, soffits or overhangs extending more than three feet from a wall, and decks more than four feet in height. This standard generally evaluates the percentage of land area covered by development. For properties located within the RS-4 zoning district, the maximum allowable lot coverage is equal to 35 percent of the lot area. In this case, 35 percent of the 17,717 square-foot lot is 6,201 square feet. The project proposes a lot coverage of 5,340 square feet or 30 percent, which is less than the maximum allowable lot coverage of 35 percent.

Accessory Structure Standards

Setbacks:

Pursuant to Section 17.50.250.D.2 of the Zoning Code, an accessory structure may be located in a required side or rear setback; provided it is located more than 100 feet from the front property

line or entirely within 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 accessory structure would be constructed approximately 10 feet from the west side property line and 17 feet from the east side property line, 184 feet from the front property line, and more than 61 feet from the rear property line.

Section 17.50.250 of the Zoning Code requires an accessory structure to maintain a minimum separation of six feet from any other structure on the site. The separation shall be clear and unobstructed by any encroachments. The proposed accessory structure would maintain a minimum clear and unobstructed separation of 14'-6" from the existing six-car garage, which is the nearest structure.

Accessory Structure Size:

According 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. For the subject 17,717 square-foot site, the maximum permitted aggregate accessory structure area is 1,063 square feet. The site is currently developed with an existing 1,080 square foot garage, which already exceeds the maximum allowable accessory structure size. Therefore, the proposed 1,206 square-foot accessory structure does not comply with the Zoning Code, and a Variance is required to allow deviation from the maximum allowable aggregate accessory structure size. The evaluation of the project for conformance with Variance findings can be found below.

Height Limits:

As prescribed in Section 17.50.250.E of the Zoning Code, the top plate height for an accessory structure shall not exceed nine feet. Additionally, the overall height of an accessory structure (excluding the top plate height) may rise above the nine-foot height limit as it steps or slopes away from the two-foot initial setback, but shall not intercept an encroachment plane sloping inward from a point nine feet in height and rising a maximum of one and one-half feet of distance starting at the two-foot setback. Furthermore, an accessory structure may rise to, but shall not exceed, an overall height of 15 feet, so long as the structure does not intercept the encroachment plane.

The proposed top plate height of the accessory structure is nine feet, with an overall height of 16 feet, measured from existing grade and does not intercept the encroachment plane at any point. Therefore, the proposed accessory structure complies with the maximum allowable top plate height and encroachment plane requirements. However, the project exceeds the overall height requirement by one-foot. In accordance with Section 17.61.080.C.2.c, a Minor Variance may be granted for adjustments not exceeding 25 percent of the development standard provided that all findings are met for the proposed Minor Variance. Evaluation of the project for compliance with the Minor Variance findings can be found below.

Variance – To exceed the maximum permitted aggregate accessory structure area

Variance applications allow the City to review whether a deviation from the Zoning Code can be granted for a project. A Variance may only be granted after making five findings pursuant to Section 17.61.080.G (Findings and Decision) of the Zoning Code. The general purpose of review is to identify compliance with the Zoning Code and General Plan, whether exceptional or extraordinary circumstances exist, whether the application is necessary for the preservation and enjoyment of property rights, and to ensure no detriment or injury to surrounding properties.

Additionally, a Variance shall not be granted that would have the effect of granting a special privilege not shared by other property owners in the vicinity and under identical zoning districts.

The purpose of the Single-Family Residential zoning district is to “ensure adequate light, air, privacy, and open space for each dwelling, and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects” (PMC 17.22.020.B.1.b). The proposal to construct an accessory structure exceeding the maximum aggregate area permitted by the Zoning Code for a single-family residential property would compromise the intended character of the neighborhood. Therefore, granting the application would be detrimental to property in the vicinity of the project site and to the general welfare of the neighborhood.

Additionally, no exceptional or extraordinary circumstances exist at the subject site that would warrant the approval of a Variance. According to Section 17.22.040 of the Zoning Code, the minimum lot width for properties in the RS-4 (Single-Family Residential, 0-4 lots per acre) zoning district is 75 feet and the minimum lot area is 12,000 square feet. The subject site is 60 feet in width and 17,717 square feet in size. Although the subject property does not satisfy the minimum lot width requirement for properties in the RS-4 zoning district, it conforms to the minimum lot area requirements, and therefore is consistent with other properties in the vicinity. There are no topographic features, protected trees, or encroachments that prevent the site from being used in accordance with other properties in the vicinity. The existing non-conforming use does not constitute a condition inherent to the subject site and therefore does not provide justification for deviation from the requirements of the Zoning Code applicable to other properties in the same zoning district. As such, there are no special circumstances that would justify the construction of an accessory structure exceeding the maximum aggregate area.

Any additional accessory structure area would create a condition granting the applicant use of the site in a way that is inconsistent with other properties in the zoning district. The existing detached six-car garage satisfies the parking requirement of the Zoning Code and provides the applicant enjoyment of a right enjoyed by other properties in the vicinity. The proposed accessory structure is not required to satisfy a Zoning Code requirement, and therefore granting of the Variance to exceed the maximum permitted accessory structure size is not required to prevent unreasonable property loss or unnecessary hardship.

Staff is unable to make all five Variance findings in the affirmative, due to the site lacking exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the proposed accessory structure, and due to the project not being consistent with General Plan policies as it relates to neighborhood character.

Minor Variance – To exceed the maximum permitted accessory structure height

Minor Variance applications allow the City to review whether a deviation from the Zoning Code can be granted for a project. A Minor Variance may only be granted after making five findings pursuant to Section 17.61.080.G (Findings and Decision) of the Zoning Code. The general purpose of review is to identify compliance with the Zoning Code and General Plan, whether exceptional or extraordinary circumstances exist, whether the application is necessary for the preservation and enjoyment of property rights, and to ensure no detriment or injury to surrounding properties. Additionally, a Minor Variance shall not be granted that would have the effect of granting a special privilege not shared by other property owners in the vicinity and under identical zoning districts.

As stated above, the purpose of the Single-Family Residential zoning district is to “ensure adequate light, air, privacy, and open space for each dwelling, and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects”. The proposed accessory structure over the height limit would compromise the intended character of the neighborhood. Therefore, granting the application would be detrimental to property in the vicinity of the project site and to the general welfare of the neighborhood.

Additionally, no exceptional or extraordinary circumstances exist at the subject site that would warrant the approval of a Minor Variance. As stated above, the minimum lot width for properties in the RS-4 (Single-Family Residential, 0-4 lots per acre) zoning district is 75, feet according to Section 17.22.040 of the Zoning Code, and the minimum lot area is 12,000 square feet. The subject site is 60 feet in width and 17,717 square feet in size. Although the subject property does not satisfy the minimum lot width requirement for properties in the RS-4 zoning district, it conforms to the minimum lot area requirements, and therefore is consistent with other properties in the vicinity. There are no topographic features, protected trees, or encroachments that prevent the proposed structure from complying with the maximum height limit. As such, there are no special circumstances that would justify the construction of an accessory structure exceeding the maximum allowable height.

Staff is unable to make all five Minor Variance findings in the affirmative, due to the site lacking exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the proposed accessory structure, and due to the project not being consistent with General Plan policies as it relates to neighborhood character.

Tree Protection Ordinance

There are several trees located within the site; however, the project would not result in the removal of any trees. There are two protected trees on the site, a 30-inch diameter at breast height (DBH) oak tree and a 24-inch DBH oak tree located in the front portion of the property and would be unaffected by the proposed project. The building footprint for the proposed accessory structure falls within the dripline of an existing, non-protected mulberry tree.

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)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved). This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Hearing Officer decides to approve Minor Conditional Use Permit #6523, the project could qualify for an exemption pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303(e), Class 3, New Construction or Conversion of Small Structures), and there are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. Class 3 exempts from environmental review the construction of accessory structures.

GENERAL PLAN CONSISTENCY:

One of the purposes of the General Plan is to provide for an appropriate means by which properties can be brought into conformance with the Zoning Code over time. Goal 3, Compatible Land Uses, Policy 3.6 (Non-Conforming Uses) is designed to “encourage the replacement of non-conforming uses to achieve groupings of compatible uses that conform to the current zoning standards.” Therefore, the expansion of the existing, non-conforming use would not be consistent with the General Plan Policy to bring non-conforming uses into compliance with current zoning. In addition, Goal 22, Single-Family Neighborhoods, Policy 22.1 (Appropriate Scale and Massing) is intended to “discourage mansionization by requiring building scale and massing that is compatible with existing development in single-family residential neighborhoods.” The proposed accessory structure would exceed both the height and the allowable aggregate area of accessory structures on the site. Therefore, the proposed structure would not be consistent with other accessory structures in the neighborhood and is not in conformance with the Goal 22 (Single-Family Neighborhood), and Policy 22.1 (Appropriate Scale and Massing) of the General Plan.

COMMENTS FROM OTHER DEPARTMENTS:

The proposed project was reviewed by the Department of Public Works, Pasadena Water and Power, Department of Transportation, Fire Department, Building and Safety Division, and Design and Historic Preservation Section, all of which had no comments.

CONCLUSION:

An expansion of the existing, non-conforming multi-family use of the site would not be consistent with the character of the single-family neighborhood. The height and scale of the proposed accessory structure does not comply with the Zoning Code and is therefore not compatible with the existing and future land uses in the vicinity in terms of aesthetic value, character, and scale.

Staff finds that the findings necessary for approving the Minor Conditional Use Permit, Variance, and Minor Variance to allow the construction of a 1,206 square-foot accessory structure on a property with a non-conforming multi-family use within the RS-4 (Single-Family Residential, 0-4 units per acre) zoning district cannot be made. There are no exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the deviation from the maximum aggregate area and height for accessory structures. The granting of this Minor Conditional Use Permit, Variance, and Minor Variance are not in conformance with the goals, policies, and objectives of the General Plan. Therefore, staff recommends that the Hearing Officer disapprove the application.

Attachments:

Attachment A: Minor Conditional Use Permit, Variance, and Minor Variance Findings

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR CONDITIONAL USE PERMIT #6523

Minor Conditional Use Permit –To allow the expansion of a non-conforming multi-family use within the RS-4 (Single-Family Residential, 0-4 units per acre) zoning district.

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 construction of an accessory structure expanding a non-conforming use is permitted through the approval of a Minor Conditional Use Permit application as indicated in Section 17.71.080.E of the Zoning Code. The proposed project complies with Zoning Code requirements pertaining to setbacks, lot coverage, floor area, parking, and top plate height. However, the proposed accessory structure exceeds the allowable aggregate area of accessory structures and therefore requires a Variance. The proposed accessory structure also exceeds the allowable overall height and requires a Minor Variance. The findings for both the Variance and the Minor Variance cannot be made and therefore the proposed project does not comply with the Zoning Code.
2. *The location of the proposed use does not comply with the special purposes of this Zoning Code and the purposes of the applicable zoning district.* According to Section 17.22.020 of the Zoning Code, the purpose of the Single-Family Residential (RS) zoning district is to ensure adequate light, air, privacy, and open space for each dwelling and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects. In addition, Chapter 17.71 of the Zoning Code governs Non-conforming Uses, Structures, and Lots and has the express purpose “to generally discourage the long-term continuance of nonconformities” and more specifically to “limit the number and extent of specific non-conforming uses and structures that conflict with the provisions of this Zoning Code by prohibiting their reestablishment after abandonment”. The proposed project is for the construction of an accessory structure intended for use as a community room for the existing multi-family use. Therefore, the construction of the accessory structure would expand the existing, non-conforming use and would not comply with the purposes of the RS-4 zoning district.
3. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* One of the purposes of the General Plan is to provide for an appropriate means by which properties can be brought into conformance with the Zoning Code over time. Goal 3, Compatible Land Uses, Policy 3.6 (Non-Conforming Uses) is designed to “encourage the replacement of non-conforming uses to achieve groupings of compatible uses that conform to the current zoning standards.” Therefore, the expansion of the existing, non-conforming use would not be consistent with the General Plan Policy to bring non-conforming uses into compliance with current zoning.
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 is an accessory structure to be utilized by residents of the existing non-conforming, multi-family use. The construction of the accessory structure would expand a non-conforming use, and allow for the intensification of the multi-family residential use of the site, which would be detrimental to the health, safety, or general welfare of the persons residing or working in the surrounding single-family residential neighborhood.

5. *The use, as described and conditionally approved, would be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* Approval of the application would expand a non-conforming use of the subject site. Allowing for the continued use and expansion of multi-family housing in a single-family residential zone compromises the preservation of the character of the neighborhood.
6. *The design location, operating characteristics, and size of the proposed use would not 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. An expansion of the existing, non-conforming multi-family use of the site would not be consistent with the character of the single-family neighborhood. The height and scale of the proposed accessory structure does not comply with the Zoning Code and is not compatible with the existing and future land uses in the vicinity in terms of aesthetic value, character, and scale.

Variance – To exceed the maximum permitted aggregate accessory structure size

7. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* According to Section 17.22.040 of the Zoning Code, the minimum lot width for properties in the RS-4 (Single-Family Residential, 0-4 lots per acre) zoning district is 75 feet and the minimum lot area is 12,000 square feet. The subject site is 60 feet in width and 17,717 square feet in size. Although the subject property does not satisfy the minimum lot width requirement for properties in the RS-4 zoning district, it conforms to the minimum lot area requirements, and therefore is consistent with other properties in the vicinity. The reduced lot width does not represent an exceptional or extraordinary circumstance that would warrant an excess in the aggregate size of accessory structures. The subject site conforms to the minimum lot area requirements and therefore is consistent with other properties in the vicinity. There are no topographic features, protected trees, or encroachments that prevent the site from being used in accordance with other properties in the vicinity. The existing non-conforming use does not constitute a condition inherent to the subject site and therefore does not provide justification for deviation from the requirements of the Zoning Code applicable to other properties in the same zoning district. As such, there are no special circumstances that would justify the construction of an accessory structure exceeding the maximum aggregate area.
8. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* According 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. For the subject 17,717 square-foot site, the maximum permitted aggregate accessory structure area is 1,063 square feet. The site is currently developed with an existing 1,080 square foot carport, which already exceeds the maximum allowable accessory structure size. Any additional accessory structure area would create a condition granting the applicant use of the site in a way that is inconsistent with other properties in the zoning district. The existing accessory structure provides the applicant enjoyment of a right enjoyed by other properties in the vicinity. Granting the approval of an additional accessory structure is not necessary to prevent unreasonable property loss or unnecessary hardship.
9. *Granting the application will be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The purpose of the Single-Family Residential (RS) zoning district is to “ensure adequate light, air, privacy,

and open space for each dwelling, and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects”. The proposal is for construction of an accessory structure exceeding the maximum aggregate area permitted by the Zoning Code for a single-family residential property, and the excess accessory structure size would compromise the intended character of the neighborhood. Therefore, granting the application would be detrimental to property in the vicinity of the project site and to the general welfare of the neighborhood.

10. *Granting the application is not consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* Goal 22, Single-Family Neighborhoods, Policy 22.1 (Appropriate Scale and Massing) is intended to “discourage mansionization by requiring building scale and massing that is compatible with existing development in single-family residential neighborhoods.” The Zoning Code allows a maximum aggregate accessory structure area that is six percent of the lot size, or 600 square feet, whichever is greater. For the subject 17,717 square foot site a maximum aggregate size of 1,063 square feet is permitted. The proposed accessory structure is 1,206 square feet which would yield an aggregate accessory structure area of 2,286 square feet, or 13% of the lot area. Therefore, the proposed structure would not be consistent with other accessory structures in the neighborhood and is not in conformance with the Goal 22 (Single-Family Neighborhood) and Policy 22.1 (Appropriate Scale and Massing) of the General Plan. Other properties in the vicinity are in the same zoning district and are subject to the same Zoning Code requirements as the subject site. Granting a Variance would constitute a special privilege inconsistent with the limitations on other properties in that it would allow the aggregate area of accessory structures to exceed that of other properties in the same zoning district.
11. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City’s development standards has not been considered as the main factor throughout the review of this application.

Minor Variance – To exceed the maximum permitted accessory structure height

12. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The minimum lot width for properties in the RS-4 (Single-Family Residential, 0-4 lots per acre) zoning district is 75 feet (PMC 17.22.040), and the minimum lot area is 12,000 square feet. The subject site is 60 feet in width and 17,717 square feet in size. Although the subject property does not satisfy the minimum lot width requirement for properties in the RS-4 zoning district, there is no connection between this condition and accessory structure height. The subject site conforms to the minimum lot area requirements and therefore is consistent with other properties in the vicinity. There are no topographic features, protected trees, or encroachments that prevent the proposed structure to comply with the maximum height limit. The existing non-conforming use does not constitute a condition inherent to the subject site and therefore does not provide justification for deviation from the requirements of the Zoning Code applicable to other properties in the same zoning district. As such, there are no special circumstances that would justify the construction of an accessory structure exceeding the allowable height.
13. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary*

hardship. The granting of additional height on an accessory structure in the RS-4 zoning district is not necessary for the preservation and enjoyment of a substantial property right of the applicant, since the property is currently developed with three residential units and a detached six-car garage. Approval of the application would grant the applicant use of the site in a way that is inconsistent with other properties in the zoning district.

14. *Granting the application will be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The purpose of the Single-Family Residential zoning district is to “ensure adequate light, air, privacy, and open space for each dwelling, and protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other adverse environmental effects” (PMC 17.22.020.B.1.b). The construction of an accessory structure exceeding the maximum allowed height permitted by the Zoning Code for a single-family residential property would compromise the intended character of the neighborhood. Therefore, granting the application would be detrimental to property in the vicinity of the project site and to the general welfare of the neighborhood.
15. *Granting the application is not consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will constitute a grant of special privileges inconsistent with limitations on other properties in the vicinity and in the same zoning district.* Goal 22, Single-Family Neighborhoods, and Policy 22.1 (Appropriate Scale and Massing) is intended to “discourage mansionization by requiring building scale and massing that is compatible with existing development in single-family residential neighborhoods.” The accessory structure in excess of the maximum permitted height would not be consistent with other accessory structures in the neighborhood and is not in conformance with Goal 22 (Single-Family Neighborhood) and Policy 22.1 (Appropriate Scale and Massing) of the General Plan. Other properties in the vicinity are in the same zone district and are subject to the same Zoning Code requirements as the subject site. Granting a Variance would constitute a special privilege inconsistent with the limitations on other properties in that it would allow the height of the proposed accessory structure to exceed that of other properties in the same zoning district.
16. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City’s development standards has not been considered as the main factor throughout the review of this application.