



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: June 3, 2020

TO: Hearing Officer

SUBJECT: Minor Variance #11925

LOCATION: 1595 Rose Villa Street

APPLICANT: Andre Vener (Owner)
Kevin Barnes (Representative)

ZONING DESIGNATION: RS-6 LD-25 (Single-Family Residential, 0-6 units per acre;
Rose Villa-Oakdale Landmark District)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Alison Walker

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** Minor Variance #11925 with the conditions in Attachment B.

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- PROJECT PROPOSAL:**
1. Minor Variance: To allow an accessory structure (pool) to encroach three-feet, six-inches into the required 10-foot corner side setback; and
 2. Minor Variance: To allow for a five-foot tall, solid fence in the corner side yard, between the street side property line and the side building line, where the maximum height permitted is four feet.

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, §15303(e), Class 3, New Construction or

Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

BACKGROUND:

Site characteristics:

The site is a rectangular corner lot located on the northwest corner of Rose Villa Street and South Sierra Bonita Avenue, measuring approximately 14,482 square feet. It is currently developed with two one-story single-family units and a detached 400 square-foot garage; the front unit (1595 Rose Villa Street) is 2,618 square feet and the rear unit (265 S. Sierra Bonita Avenue) is 1,192 square feet. The site is located within the Rose Villa-Oakdale Landmark District. The front unit (1595 Rose Villa Street) is contributing to the landmark district, while the rear unit (265 South Sierra Bonita Avenue) is non-contributing to the landmark district.

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 units per acre)
- South – RS-6 LD-25 (Single-Family Residential, 0-6 units per acre; Rose Villa-Oakdale Landmark District)
- East – RS-6 LD-25 (Single-Family Residential, 0-6 units per acre; Rose Villa-Oakdale Landmark District)
- West – RS-6 LD-25 (Single-Family Residential, 0-6 units per acre; Rose Villa-Oakdale Landmark District)

Previous zoning cases on this property: None

PROJECT DESCRIPTION:

The applicant, Kevin Barnes, on behalf of Andre Vener, has submitted a Minor Variance application to allow the construction of a swimming pool and a solid, five-foot high, fence within the corner side yard of a property developed with two single-family dwellings.

The site is a flat, rectangular corner lot with a front yard on Rose Villa Street and a corner side yard along Sierra Bonita Avenue. The existing 2,618 square-foot front unit is located near the center of the lot with an approximate 45 feet setback from the front property line, 30'-4" from the corner property line, and six feet from the interior side property line. The rear unit is located with

an approximate four-foot setback from the interior property line, two feet from the rear property line, and approximately 25 feet from the corner side property line. The detached two-car garage is located between the two units with a corner side setback of approximately 25 feet and vehicular access taken from Sierra Bonita Avenue.

Due to the presence and placement of the existing structures on the lot, the only suitable location on site to construct a pool is the area to the east of the existing front unit, within the corner side yard. The corner side yard area is approximately 30 feet wide, and the pool would be 15 feet in width, resulting in a six foot, six inch setback from the corner side property line. The minimum required corner side yard setback is 10 feet, and a Minor Variance is required to encroach into the required setback.

In addition to the construction of the swimming pool, the project includes the legalization of an existing solid fence along the eastern corner side property line. The existing fence is currently six feet high, and as part of the proposed project the height would be reduced to five feet, the minimum required by the Building Code for a pool safety enclosure. The Zoning Code allows a maximum four-foot high fence between the residence and the corner side property line. A Minor Variance is required to exceed the maximum height of a wall or fence.

ANALYSIS:

A Minor Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. It may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation that makes it obviously impractical to require compliance with the applicable development standards. A Minor Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

The City's Zoning Code defines the front property line as the shortest line of a lot that is abutting a street line, and the corner property line as a street property line that is not a front property line. Based on these definitions, the property line along Rose Villa Street has been determined to be the front property line, and the property line along Sierra Bonita Avenue has been determined to be the corner property line.

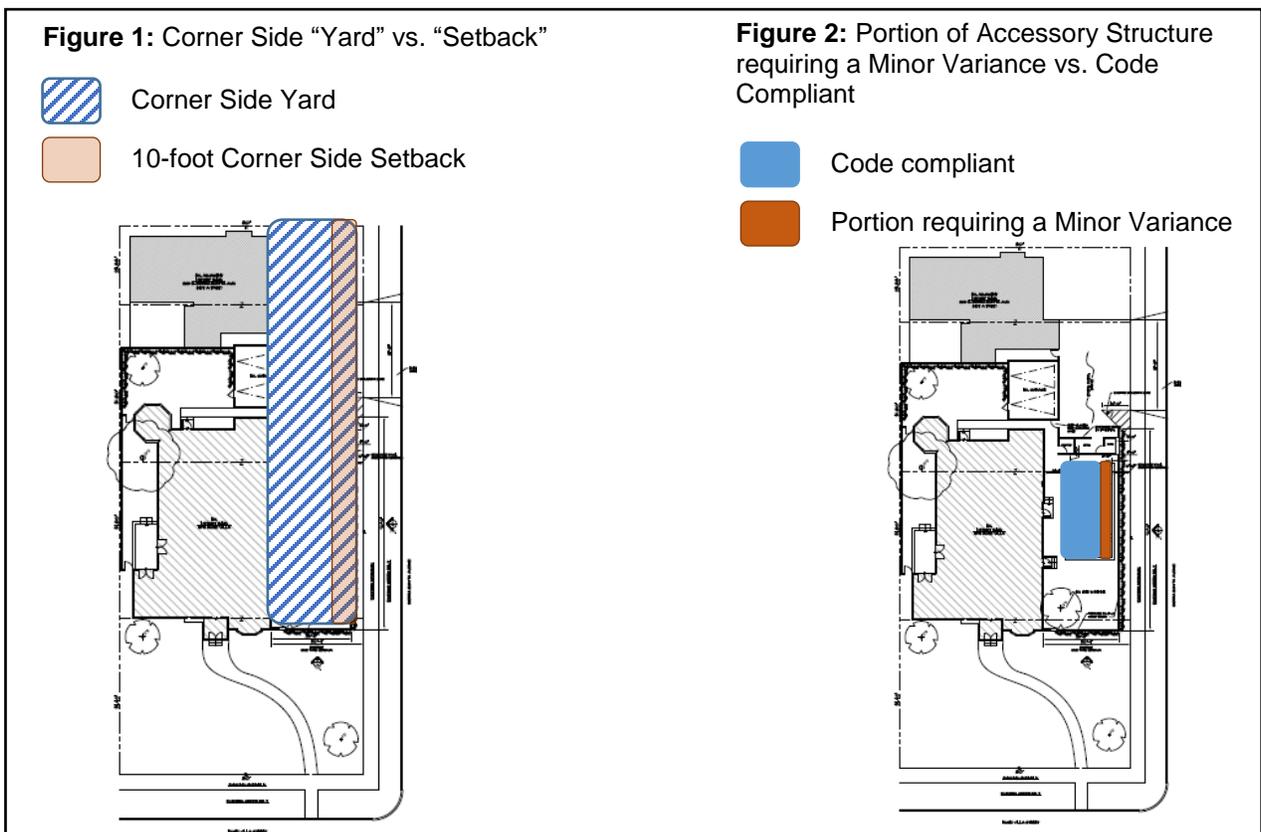
As referenced throughout this report, "corner side setback" is to refer to "the [minimum required] distance by which a [primary or accessory] structure or other development feature must be separated from a [corner side property] lot line". In addition, the Zoning Code defines "corner side yard" as the "yard extending from the rear line of the required front yard to the rear property line, the width of which is the horizontal distance between a street property line or street not considered a front property line and a line parallel there on the site," and is inclusive of the corner side setback. The corner side yard at 1595 Rose Villa Street is approximately 45 feet north of the Rose Villa Street property line and bounded by Sierra Bonita Avenue and the eastern side of the two residences and the detached garage. See **Figure 1** below for a visual representation of the corner side yard and corner side setback.

Minor Variance: To construct a swimming pool within the required 10-foot corner side setback.

The minimum required corner side setback for a property within the RS-6 zoning district is 10

percent of the lot width, with a minimum of 10 feet and a maximum requirement of 25 feet. In this case, the lot width is 80 feet; therefore, the minimum required corner side setback of 10 feet applies. Pursuant to Zoning Code Section 17.50.250.D.1 (Accessory Structure - Location), accessory structures, including pools, shall not encroach upon a required front or corner side setback. In addition, pools shall maintain a five-foot setback from a property line (Section 17.50.250.F.3).

The applicant proposes to build a 15-foot by 32-foot swimming pool on the eastern side of the existing front residence set back six feet, six inches feet from the corner side property line, and requires approval of a Minor Variance (see **Figure 2**, below). The proposed location is an area that is relatively flat, covered with grass and utilized as open space. As proposed, the construction of the pool would not disturb any vegetation or trees.



Staff finds that there are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property, although located in a single-family residential zoning district, is developed with two units on one lot, which is unique to the neighborhood. The presence of two single-family residences and a detached garage on the lot limits useable yard area on-site, with the corner side yard being the largest open space on the property. A hardship exists in that applying the Zoning Code development standards, and relocating the pool outside of the corner side setback would result in an 11'-6" wide pool, which would render it too narrow for use.

Further, the presence of an existing tree and the size of the area between the two existing units and the garage prohibits the placement of a pool in that location.

Lastly, Staff finds that granting the reduced corner side setback to six feet, six inches would not be detrimental or injurious to property or improvements in the vicinity of the development site, and to the public health, safety, and general welfare. The proposed swimming pool would meet the Zoning Code's minimum five-foot separation from a property line (Section 17.50.250.F.3), and the activities associated with a swimming pool are located away from abutting residences and would not create noise impacts to adjoining properties.

Minor Variance: To allow a five-foot high fence between the building face and the corner side property line

Section 14.04.400 of the Pasadena Building Code requires a five-foot high security enclosure (fence or wall) around a new swimming pool. Zoning Code Sections 17.40.180.B.2.d(1) and (2) allows fences or walls between the side of the residence and the corner side property line, to be a maximum height of four feet. In order to comply with the swimming pool security enclosure requirement, the applicant is proposing to legalize an existing solid, wood fence within the corner side yard, which fully encloses the side yard area where the swimming pool is proposed to be located. The existing fence would be decreased in height from six feet to five feet to meet the minimum Pasadena Building Code requirements. In order to exceed the maximum Zoning Code height of four feet the approval of a Minor Variance is required for the height of the fence.

The project site has extraordinary circumstances or conditions applicable that do not apply generally to sites in the same zoning district. The site is developed with two single-family units and a detached two-car garage, which, along with the location of an existing tree, results in a yard between the front and rear unit of insufficient size to construct a pool. As discussed in the analysis of the Minor Variance request to encroach into the corner side setback, the corner side yard area is the only feasible location for the proposed swimming pool. As a result, in order to meet Pasadena Building safety standards, a pool enclosure would be required within the corner side yard at a minimum height of five feet.

The ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy. A fence, which is required for the proposed pool, is necessary for the preservation and enjoyment of this substantial property right.

It is not anticipated that granting the Minor Variance to allow the five-foot high fence in the corner side yard, between the residence and the corner side property line, would be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare. The fence would not be located within safety and visibility areas, such as the driveway zone or front yard corner setback area. Additionally, in order to soften the appearance of a five-foot fence in a location where only four feet is permitted, the applicant proposes to maintain the existing hedges located between the existing fence and property line.

As such, staff finds that deviations from Code requirements are warranted and recommends approval of the Minor Variance request to permit the construction of a swimming pool that encroaches three feet, six inches into the 10-foot corner side setback, and to allow a five-foot high fence between the existing residence and corner side property line.

GENERAL PLAN CONSISTENCY:

The subject site is designated as Low Density Residential in the General Plan Land Use Element within the Rose Villa-Oakdale Landmark District. The use of the site would remain residential with two non-conforming single-family residences and the character of the single-family neighborhood would be maintained. The proposed swimming pool is in conformance with the General Plan, including Policy 21.3 and 22.2 (Residential Neighborhoods – Neighborhood Character and Garages and Accessory Structures), which encourages development to maintain elements of the residential street that unify and enhance the character of the neighborhood, as several other property owners already enjoy this substantial property right in the surrounding neighborhood, and to locate and design accessory structures so that they do not dominate the appearance of the dwelling from the street. The swimming pool will be screened by the existing fence and hedges so that it is not visible from the street.

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, §15303(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

COMMENTS FROM OTHER DEPARTMENTS:

The Building and Safety Division, Department of Transportation, the Fire Department, and Design and Historic Preservation Section have reviewed the project and had no comments. The Public Works Department has provided conditions, which are included in Attachment B.

CONCLUSION:

Staff finds that the existing placement of structures and presence of two units on a single-family residential zoned property create exceptional or extraordinary circumstances and conditions applicable to the development on the subject site, which warrants the approval of the requested Minor Variances for the location of the proposed swimming pool and the height of the pool enclosure fence. It is staff’s assessment that the findings necessary for approving the Minor Variance applications to deviate from the corner side setback and from the four-foot height limit for walls and fences can be made. As designed, the requested pool location and fence height would not be detrimental to surrounding properties and to other residences in the immediate neighborhood. Staff recommends approval of the Minor Variances, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

ATTACHMENTS:

- Attachment A: Minor Variance Findings
- Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11925

Minor Variance: To allow a swimming pool to encroach within the required 10-foot corner side setback.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The subject property, although located in a single-family residential zoning district, is developed with two units on one lot, which is unique to the neighborhood. The presence of two single-family residences and a detached garage on the lot limits useable yard area on-site, with the corner side yard being the largest open space on the property. A hardship exists in that applying the Zoning Code development standards, and relocating the pool outside of the corner side setback would result in an 11'-6" wide pool, which would render it too narrow for use.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Swimming pools are common amenities to residential properties, and a number of surrounding properties are developed with pools in the general vicinity. Because of the placement of the existing improvements and a tree on the site, a new swimming pool on another location of the site is infeasible. Constructing an accessory structure that complies with the development standards, specifically structure placement, poses unusual circumstances that a typical single-family residential property does not encounter. The proposed swimming pool location, within the corner side yard, will allow the property owner to enjoy accessory uses and structures that single-family residential properties are typically afforded. As such, staff finds that granting of the Minor Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
3. *Granting the application will not 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 new swimming pool will be located behind an existing fence and not be visible from the street. Therefore, the granting of the Minor Variance would not be detrimental or injurious to property or improvements in the vicinity of the subject site. The swimming pool will also be required to meet all safety and building codes which will be reviewed through the plan check process. As proposed, this project proposes to construct the swimming pool in a location that will not affect neighboring properties or affect the general public.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element within the Rose Villa-Oakdale Landmark District. The use of the site would remain residential with two non-conforming single-family residences and the character of the single-family neighborhood would be maintained. The proposed swimming pool is in conformance with the General Plan, including Policy 21.3 and 22.2 (Residential Neighborhoods – Neighborhood Character and Garages and Accessory Structures), which encourages development to maintain elements of the residential street that unify and enhance the character of the neighborhood, as several other property owners already enjoy this substantial property right in the surrounding neighborhood, and to locate and design accessory structures so that they do not dominate the appearance of the dwelling from the street. The swimming pool would be screened by the existing fence and hedges so that it is not

visible from the street. Further, the proposed swimming pool would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district as swimming pools are a common accessory use throughout the RS-6 zoning district.

5. *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 to comply with the City's development standards has not been considered a factor throughout the review of this application.

Minor Variance: To allow a five-foot high fence between the building face and the corner side property line

6. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* On corner lots, fences and walls are permitted a height of no more than four feet within the area between the corner side property line and the residence; however, pool enclosures are required to be at least five feet high by Pasadena Building Code. Given the placement of the existing buildings, the only viable location for a pool on the subject site is the area to the east of the front residence, partially within the required 10-foot corner side setback; and as a result, the associated required security enclosure will also fall within the limits of the corner side yard. As proposed, the fence will be the minimum height required for a pool enclosure (five feet) and will be screened by existing landscaping.
7. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Swimming pools are common amenities to residential properties, and many residences are developed with pools in the general vicinity. The subject fence for the proposed pool is necessary for the preservation and enjoyment of this substantial property right. In addition, by permitting a five-foot high fence with landscape screening in the corner side yard will provide additional privacy from passing traffic on Sierra Bonita Avenue and Rose Villa Street.
8. *Granting the application will not 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 five-foot high fence provides additional privacy and security from passing pedestrian and vehicular traffic on Sierra Bonita Avenue and Rose Villa Street. The fence would not be located within safety and visibility areas, such as the driveway zone or front yard corner setback area. Additionally, in order to soften the appearance of a five-foot fence the applicant proposes to maintain the existing hedges located between the existing fence and property line. The fence will also be required to meet all safety and building codes which will be reviewed through the plan check process. Therefore, the granting of the Minor Variance for the fence would not be detrimental or injurious to property or improvements in the vicinity of the subject site.
9. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element within the Rose Villa-Oakdale Landmark District. The use of the site would remain residential with two non-conforming single-family residences and the character of the single-family neighborhood would be maintained. The proposed fence is in conformance with the General Plan, including Policy 21.3 and 22.2 (Residential Neighborhoods – Neighborhood Character and Garages

and Accessory Structures), which encourages development to maintain elements of the residential street that unify and enhance the character of the neighborhood, as several other property owners already enjoy this substantial property right in the surrounding neighborhood, and to locate and design accessory structures so that they do not dominate the appearance of the dwelling from the street. The fence will be the minimum height required by the Building Code, will be screened by landscaping, and will be setback four feet from the street side property line, so that it will have a minimal impact on views from the street and the neighborhood. Further, the proposed fence would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district as the fence is required for the swimming pool, which are a common accessory use throughout the RS-6 zoning district.

10. *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 to comply with the City's development standards has not been considered a factor throughout the review of this application.

ATTACHMENT B
RECOMMENDED CONDITIONS FOR MINOR VARIANCE #11925

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

General

1. The site plan and elevations submitted for building permits shall substantially conform to plans submitted with this application stamped "Approved at Hearing, June 3, 2020" except as modified herein.
2. This approval allows for the following Minor Variances, as depicted in the plans submitted with this application, stamped "Approved at Hearing, June 3, 2020":
 - a. A swimming pool to encroach no more than three feet six inches into the required 10-foot corner side setback; and
 - b. A five-foot high, solid, fence between the corner side property line and the residence, behind the building's front occupancy line.
3. In accordance with Section 17.64.040 of the Pasadena Municipal Code and in accordance with City Council Resolution No. 9774, 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 Section 17.64.040 C of the Zoning Code.
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 **PLN2020-00104**, 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 Alison Walker, Current Planning Section, at (626) 744-6742 to schedule an inspection appointment time.

Planning

7. The subject pool shall be at least five feet from any property line.
8. Vertical landscape screening shall be installed and maintained between the corner side property line and the approved fence. Plant species and spacing shall be reviewed and approved by the Zoning Administrator during the plan check process.
9. The fence shall not exceed five feet in height, at any point, as measured from the lowest point of existing grade on either side.
10. If the scope of the project changes, Design and Historic Preservation staff shall be notified to determine if a Certificate of Appropriateness is required.

Public Works Department

11. The Department of Public Works record shows multiple house sewer lateral connections, for this subject property, connecting from the Sierra Bonita Avenue frontage. One of these house sewer laterals is within a close proximity of the proposed swimming pool location. The applicant is recommended to field-verify the house sewer lateral alignment prior to excavation.
12. A separate permit from the Department of Public Works is required for all construction/occupation in the public right-of-way. Please contact 626-744-4195 for the general process.
13. 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.
14. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: <https://www.cityofpasadena.net/public-works/engineering-and-construction/engineering/>. A non-refundable flat fee, based on the General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way (and the private street) including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction truck idling or staging, material storage, or construction trailer are allowed in the public right-of-way.
15. Prior to the start of construction or issuance of any permits, the applicant shall conduct a field meeting with an inspector from the Department of Public Works for review and approval of construction staging, parking, delivery and storage of materials, final sign-off procedure, and any of the specifics that will affect the public right-of-way. An appointment can be arranged by calling 626-744-4195.
16. The requirements of the following ordinances may apply to the proposed project: City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC. The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the support of the Urban Forestry Advisory Committee. No trees shall be damaged by the proposed construction, if a City tree is damaged, the applicant may be liable for the assessed value of the tree. Refer to <https://www.cityofpasadena.net/public-works/parks-and-natural-resources/urban-forestry/> for guidelines and requirements for tree protection.